Laws and Resolutions

OF THE

STATE OF MONTANA

PASSED BY THE

Fortieth Legislative Assembly

In Regular Session

Held at Helena, the Seat of Government of Said State,
Commencing January 2, 1967, and
Ending March 3, 1967;
And Extraordinary Session
Commencing March 3, 1967, and
Ending March 18, 1967.

PUBLISHED BY AUTHORITY

STATE PUBLISHING CO., HELENA, MONT.

HeinOnline -- 1967 vol. I i 1967

Certificate of Authentication

State of Montana,
Department of } ss.
Secretary of State

I, Frank Murray, Secretary of State of the State of Montana, do hereby certify that by virtue of the authority vested in me by law I have prepared for publication and caused to be printed a copy of all laws, resolutions and appropriation measures passed by the Fortieth Legislative Assembly of the State of Montana, at the Fortieth regular Session commencing January 2, 1967, and concluding March 3, 1967; and the extraordinary Session commencing March 3, 1967, and concluding March 18, 1967; that I have caused to be compared the said printed laws, resolutions and appropriation measures with true copies of the original manuscript thereof now on file in my office, and that the following are true, full and correct copies thereof.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Great Seal of the State of Montana, at Helena, the Seat of Government, this fifth day of June, 1967.

Frank Murray

Secretary of State.

HeinOnline -- 1967 vol. I iii 1967

OFFICERS AND MEMBERS

OF THE

Fortieth Legislative Assembly of the State of Montana

1967

TIM BABCOCK, Governor

Ted James, Lieutenant Governor, President of the Senate
Edward T. Dussault, President Pro Tem of the Senate
W. A. "Bill" Groff, President Pro Tem (Ad Interim)
James R. Felt, Speaker of the House

Members of the Senate

NAME	DIST. NO.	RESIDENCE OR MAILING ADDRESS	COUNTY OF RESIDENCE	POLITICS
*Anderson, LeRoy	20	Box 576, Conrad	Pondera	Democrat
*Bennett, W. F.	30	Box 100, Columbia Falls	Flathead	Republican
*Bertsche, Wm. H.	18	1917 4th Ave. N., Great Falls	Cascade	Democrat
Brownfield, Ben	2	123 S. Taylor, Glendive	Dawson	Republican
*Cotton, Robert S.	5	Box 27, Glasgow	Valley	Democrat
Deschamps, G. W. "Por"	26	Grass Valley, RFD 2, Missoula	Missoula	Republican
DeWolfe, Percy	29	Browning	Glacier	Democrat
Dussault, Edward T.	26	Mullan Road, Missoula	Missoula	Democrat
Dzivi, Dick	18	Ford Bldg., Great Falls	Cascade	Democrat
Edwards, Lochiel	10	Malta	Phillips	Republican
*Flynn, Elmer	26	Mullan Road, Missoula	Missoula	Democrat
*Folsom, Mills	26	RFD 4, Missoula	Missoula	Republican
*Gilfeather, P. J.	18	2816 4th Ave. S., Great Falls	Cascade	Democrat
*Graham, Carroll A.	8	Lodge Grass	Big Horn	Democrat
*Groff, W. A. "Bill"	25	Victor	Ravalli	Democrat
Hafferman, William F.	31	¼ mile west on Hwy. 2, Libby	Lincoln	Democrat
*Haughey, James M.	9	2205 Tree Lane, Billings	Yellowstone	Republican
*Hazelbaker, Frank W.	24	Box 430, Dillon	Beaverhead	Republican
Hibbard, Henry S.	21	618 Madison, Helena	Lewis & Clark	Republican
Hibbs, Rex F.	9	15 Valley Drive, Billings	Yellowstone	Republican
Hilling, Henry B., Sr.	9	1214 9th St. W., Billings	Yellowstone	Republican
*James, David F.	19	Box 221, Joplin	Liberty	Democrat
*Judge, Thomas L.	21	219 Geddis, Helena	Lewis & Clark	Democrat
Kafka, Lada J.	19	Shambo Route, Havre	Hill	Democrat
*Keenan, P. J.	22	1112 E. 5th St., Anaconda	Deer Lodge	Democrat
*Klindt, Herbert J.	9	402 Alderson Ave., Billings	Yellowstone	Republican
*Lehrkind, Carl, Jr.	15	Box 399, Bozeman	Gallatin	Republican
*Mackay, William R.	13	Roscoe	Carbon	Republican
*Mahoney, Eugene H.	27	Box 38, Thompson Falls	Sanders	Democrat
Manning, Dave	6	Hysham	Treasure	Democrat
Mathers, William L.	7	Box 267, Miles City	Custer	Republican
McDonald, John (Jack) K.	18	Belt	Cascade	Democrat
*McGowan, Gordon	17	Highwood	Chouteau	Democrat
McKeon, John L. (Luke)	22	316 E. 7th St., Anaconda	Deer Lodge	Democrat
McOmber, W. Gordon	20	Fairfield	Teton	Democrat
Mitchell, Harry B.	18	Box 2387, Great Falls	Cascade	Democrat
*Moritz, Earl	11	1024 Evelyn St., Lewistown	Fergus	Republican
Nees, Stanley	4	Box 476, Poplar	Roosevelt	Democrat
Rasmussen, Robert J.	5	Box 747, Glasgow	Valley	Democrat
Rehberg, Jack D.	9	2317 Rehberg Lane, Billings	Yellowstone	Republican
*Rosell, Antoinette Fraser	9	4200 Rimrock Road, Billings	Yellowstone	Republican
Rostad, Carl	16	Loweth Rte., Martinsdale	Meagher	Republican
*Rugg, Glen T.	1	Box 188, Plevna	Fallon	Republican
Sample, Alex K., Jr.	30	404 Ashley Court, Kalispell	Flathead	Republican
Schotte, George B.	23	2805 Floral Blvd., Butte	Silver Bow	Democrat
*Selstad, Tom	18	133 29th Ave. N.W., Gt. Falls	Cascade	Republican
*Shugrue, Stephen J.	23	980 N. Main St., Butte	Silver Bow	Democrat
*Siderius, George	30	c/o Somers Stage, Kalispell	Flathead	Democrat
*Stein, Ben H.	14	Livingston	Park	Republican
Street, J. D.	15	1136 E. Curtiss, Bozeman	Gallatin	Republican
Swanz, Edward A.	12	14 1st S.W., Harlowton	Wheatland	Republican
Thiessen, Cornie R.	3	Box 195, Lambert	Richland	Democrat
Tracy, Tom	23	2425 Nettie St., Butte	Silver Bow	Democrat
*Turnage, Jean A.	28	Box 450, Polson	Lake	Republican
*Vainio, Leonard W.	23	1701 Grand Ave., Butte	Silver Bow	Democrat

* Four-year terms; all other Senators two-year terms.

HeinOnline -- 1967 vol. I v 1967

House of Representatives

NAME	DIST. NO.	RESIDENCE OR MAILING ADDRESS	COUNTY OF RESIDENCE	POLITICS
Ainsworth, A. L. (Bud)	26	332 Woodworth Ave., Missoula	Missoula	Republican
Asbjornson, J. O. "Boots"	11	Winifred	Fergus	Republican
Aspevig, LeRoy "Bud"	19	Rudyard	Hill	Democrat
Baeth, William R.	31	614 Louisiana Ave., Libby	Lincoln	Democrat
Bailey, Manson H., Jr.	5B	Box 743, Glasgow	Valley	Democrat
Bardanouve, Francis	10B	Harlem	Blaine	Democrat
Bollinger, Gordon E.	5B	122 3rd Ave. N., Glasgow	Valley	Democrat
Boughton, Bert D.	6	Jordan	Garfield	Republican
Brand, Joe	22A	800 Montana Ave., Deer Lodge	Powell	Democrat
Broeder, Fred O.	30	Route 4, Kalispell	Flathead	Republican
Brownlee, Geo.	17	Stanford	Judith Basin	Republican
Casey, Loran	4	Wolf Point	Roosevelt	Republican
Christiansen, E. W. "Bill"	8	310 N. Crow Ave., Hardin	Big Horn	Democrat
Cox, Henry S.	9	1439 Colton Blvd., Billings	Yellowstone	Republican
Crum, Forrest H.	9	1421 Norman Park Drive, Billings	Yellowstone	Republican
Darrow, George	9	2100 Fairview Place, Billings	Yellowstone	Republican
Delano, John L.	21	Box 1677, Helena	Lewis & Clark	Republican
Doty, Russell L., Jr.	18	220 18th St. S., Great Falls	Cascade	Democrat
Dougherty, Eleanor M.	18	517 3rd Ave. N., Great Falls	Cascade	Democrat
Drum, Dave	9	3112 Radcliff Drive, Billings	Yellowstone	Republican
Dye, Robert F.	15	610 S. Willson, Bozeman	Gallatin	Republican
East, Vic	6	Forsyth	Rosebud	Republican
Egan, Eugene C.	20B	Valier	Pondera	Democrat
Etchart, Mark	5B	Box 229, Glasgow	Valley	Republican
Falkenstern, Arnold H.	1	Terry	Prairie	Republican
Fasbender, Larry	18	Route 1, Box 23, Fort Shaw	Cascade	Democrat
Feisthamel, Robert M.	2	510 E. Williams, Glendive	Dawson	Republican
Felt, James R.	9	303 Parkhill Drive, Billings	Yellowstone	Republican
Fischer, C. R. "Ray"	22B	1201 W. Park Ave., Anaconda	Deer Lodge	Democrat
Garrison, W. F. Bill	24B	Glen	Madison	Republican
Gerke, Harold E.	9	202 Mtn. View, Billings	Yellowstone	Democrat
Getter, Ralph E.	29	224 2nd Ave. S.E., Cut Bank	Glacier	Republican
Giesick, Gary	9	Route 1, Box 106, Billings	Yellowstone	Republican
Gilligan, Peter J.	18	3020 4th Ave. S., Great Falls	Cascade	Democrat
Glennen, Robert E.	9	1135 O'Malley Drive, Billings	Yellowstone	Republican
Goan, William S.	9	46 Lewis Ave., Billings	Yellowstone	Republican
Gunderson, Jack	18	Power	Cascade	Democrat
Haines, Tom	26	15 Martha's Court, Missoula	Missoula	Republican
Hall, John C.	18	1020 3rd Ave. N., Great Falls	Cascade	Democrat
Harlow, Paul K.	27	Box 277, Thompson Falls	Sanders	Democrat
Harrison, James T., Jr.	21	820 N. Montana Ave., Helena	Lewis & Clark	Republican
Healy, John E. (Jack)	23	624 W. Granite St., Butte	Silver Bow	Democrat
Hemstad, Nels	20C	Dutton	Teton	Republican
Himsl, Matt	30	305 4th Ave. E., Kalispell	Flathead	Republican
Holtz, Ronald W.	18	Floweree	Cascade	Democrat
James, Isabel B.	24A	Grant	Beaverhead	Republican
Jensen, Millo	28	Ronan	Lake	Republican
Jurcich, Frank J.	22B	1006 E. 3rd St., Anaconda	Deer Lodge	Democrat
Kvaalen, Oscar S.	3	Lambert	Richland	Republican
Lee, Robert E. "Bob"	23	1600 Sampson, Butte	Silver Bow	Democrat
Leuthold, John H.	13	Molt	Stillwater	Republican
Lewis, Joe H.	29	Browning	Glacier	Democrat
Loman, Ray M.	28	Ronan	Lake	Republican
Lombardi, Jerry V.	23	947 Waukesha St., Butte	Silver Bow	Democrat
Lucas, James P.	7	500 S. Strevell, Miles City	Custer	Republican
Lundgren, Conrad F.	30	844 Woodland, Kalispell	Flathead	Republican
Manning, John M.	2	717 N. Kendrick, Glendive	Dawson	Republican
Marbut, Gary R.	26	Box 1519, Missoula	Missoula	Republican
Mather, W. S. (Bill)	9	2200 Fairway Drive, Billings	Yellowstone	Republican
McCulloch, Robert B.	15	504 W. Main St., Bozeman	Gallatin	Republican
McGrath, Harold A.	23	640 S. Montana, Butte	Silver Bow	Democrat
McNamara, Jack R.	21	916 Stuart St., Helena	Lewis & Clark	Democrat
Mehrens, John (Sandy)	22B	206 Evergreen, Anaconda	Deer Lodge	Democrat
Murphy, James E.	30	604 Woodland, Kalispell	Flathead	Republican
Newby, Albert (Al) C.	15	Box 107, Belgrade	Gallatin	Republican
Nichols, Norris	25	Stevensville	Ravalli	Republican
Northey, Harry T.	26	514 Daly Ave., Missoula	Missoula	Republican
Nugent, James P.	26	637 Alder, Missoula	Missoula	Democrat
Nutting, Richard A.	13	Silesia	Carbon	Republican
Ommundsen, George	14	617 N. 3rd St., Livingston	Park	Republican
Patrick, Chase	21	714 E. 6th, Helena	Lewis & Clark	Republican
Perry, Louis	10A	Malta	Phillips	Republican
Pierce, John H.	9	1312 Parkhill Drive, Billings	Yellowstone	Republican
Prevost, Robert C.	3	Lambert	Richland	Democrat
Romney, Miles	25	Box 633, Hamilton	Ravalli	Democrat
Rygg, Sterling	30	37 7th St. E., Kalispell	Flathead	Republican
Schye, Elmer	16	Box 504, White Sulphur Sprgs	Meagher	Republican
Shively, John D.	15	1101 S. 3rd Ave., Bozeman	Gallatin	Republican
Slaby, Cyril E. "Cy"	19	612 15th St., Havre	Hill	Democrat
Smith, Carl M.	8	Olive	Powder River	Republican
Smith, Edward B.	5A	Dagmar	Sheridan	Republican
Spahr, William E.	18	1204 4th Ave. N., Great Falls	Cascade	Democrat

HeinOnline -- 1967 vol. I vi 1967

HOUSE OF REPRESENTATIVES—(Continued)

NAME	DIST. NO.	RESIDENCE OR MAILING ADDRESS	COUNTY OF RESIDENCE	POLITICS
Spilde, Gene	12B	Big Timber	Sweet Grass	Republican
Staigmiller, John B	18	Eden Route, Great Falls	Cascade	Democrat
Steele, John W	26	1129 Jackson, Missoula	Missoula	Democrat
Stimatz, Lawrence G	23	1615 C St., Butte	Silver Bow	Democrat
Stratton, Scott B	18	504 22nd St. N., Great Falls	Cascade	Republican
Sullivan, Kermit C	27	Box 395, Superior	Mineral	Democrat
Swan, Miles L	17	Highwood	Chouteau	Republican
Teeple, Randall D	31	Route 2, Box 1602, Libby	Lincoln	Democrat
Twedt, Gordon R	19	Rudyard	Hill	Democrat
Ulmer, Walter J	7	121 S. Merriam, Miles City	Custer	Republican
Van Der Voort, Harry	12A	Ryegate	Golden Valley	Republican
Wallander, J. B. (Jerry)	4	Froid	Roosevelt	Republican
Warfield, Wm. S. IV (Bill)	14	Hoffman Rte., Livingston	Park	Republican
Wayrynen, Ray J	23	133 E. Broadway, Butte	Silver Bow	Democrat
White, Robert S. (Bob)	11	Route 2, Lewistown	Fergus	Republican
Whitney, Earl	1	Box 291, Ekalaka	Carter	Republican
Williams, Pat	23	1728 Thornton, Butte	Silver Bow	Democrat
Williams, W. G. "Bill"	16	Toston	Broadwater	Republican
Willits, John B	18	1620 5th Ave. N., Great Falls	Cascade	Democrat
Wolf, Kenneth M	20A	142 5th Ave. N., Shelby	Toole	Republican
Woodard, Hubert E	9	Box 1831, Billings	Yellowstone	Republican
Worden, H. O. (Bill)	26	208 Pattee Canyon Drive, Missoula	Missoula	Republican

CONTENTS

Chap.	Senate Bill	House Bill	Title	Page
1		2	An Act Relating to the Organization and Procedures of the Fortieth Legislative Assembly; Prescribing the Duties and Compensation of Legislative Employees; and Specifying an Effective Date	1
2		12	An Act Creating the Montana Arts Council and Prescribing Its Powers and Duties	4
3		6	An Act to Approve and Legalize and Adopt as Prima Facie the Laws of Montana Replacement Volume Number 5 (in Two Parts) of the Revised Codes of Montana, 1947, as Published by the Publishers and Distributors of Said Codes, and Providing an Effective Date	6
4		19	An Act to Amend the Montana Milk Control Law; Amending Section 27-401, R.C.M. 1947, by Declaring the Legislative Policy Extends to Milk Used for Manufacturing Purposes; Amending Section 27-402, R.C.M. 1947, by Removing the Word "Fluid"; Amending Section 27-403, R.C.M. 1947, by Changing the Definition of Milk and Providing for Three Classes of Milk; Amending Section 27-405, R.C.M. 1947, by Removing the Word "Fluid" and Clarifying the Duties of the Milk Control Board; Amending Section 27-407, R.C.M. 1947, by Providing for State-wide Price Hearings Under Certain Circumstances and by Providing for Monthly Posting of Mandatory Minimum Prices for Class II and Class III Milk; Amending Section 27-415, R.C.M. 1947, by Removing the Confidential Classification of Certain Records of the Milk Control Board; Amending Section 27-426, R.C.M. 1947, by Authorizing the Milk Control Board to Require Additional Bonds to Be Posted by Milk Distributors Under Certain Circumstances; Providing a Severability Clause; and Repealing All Acts and Parts of Acts in Conflict Herewith.	7
5	1		An Act Authorizing the Use of Certified Mail Where Notification by Registered Mail Is Required.	19
6		45	An Act to Amend Section 5-532, R.C.M. 1947, Relating to Reserve Requirements of Banks.	19
7		26	An Act Amending Section 10-622, R.C.M. 1947, as Amended by Chapter 94, Laws of 1965, Relating to Probation Officers, to Increase Salaries of Such Officers.	20
8	9		An Act Reducing the Interest Rate on Purchase Money Paid to Tax Sale Purchasers by Redemptioners; Amending Section 84-4130, R.C.M. 1947.	21
9	14		An Act to Provide for the Use of the Word "Pharmacy"; Amending Section 66-1508, R.C.M. 1947.	22
10	36		An Act Amending Section 15-2103, R.C.M. 1947, to Include Pharmacists, Physical Therapists Within the Provisions of the Professional Service Corporation Act.	23
11		46	An Act to Amend Section 5-1130, R.C.M. 1947, Relating to Borrowing Money for Capital Purposes by Any Commercial Bank, Savings Bank, Trust Company or Investment Company and the Issuance of Capital Notes or Debentures Therefor.	24
12	10		An Act to Change the Name of "Committee on Problems of Aging" to "Commission on Aging"; Amending Sections 82-3501, 82-3502, 82-3503, 82-3504, 82-3505, and 82-3506, R.C.M. 1947; Providing for an Effective Date.	25
13		21	An Act Relating to the Acquisition, Erection, Equipment, Enlargement and Improvement of Housing and Other Revenue-Producing Facilities at Units of the Montana University System, and the Collection of Charges, Admissions and Fees for Such Facilities; Amending Sections 75-216 and 82-3316, R.C.M. 1947.	26
14		96	An Act Amending Section 43-902, R.C.M. 1947, to Provide for an Additional Fee for Mailing Each Complete Set of the Proceedings of the Legislature That Is Mailed; Specifying That the Fee Shall Be Fifty Dollars ($50) If a Person	

Chap.	Senate Bill	House Bill	Title	Page
			Requests That the Proceedings Be Mailed First Class Mail and Eighty Dollars ($80) If a Person Requests That the Proceeding Be Mailed Airmail.	29
15		50	An Act Setting Discount of Inheritance Tax If Paid Within Eighteen Months; Interest Charged and Collected If Tax Not Paid Within Eighteen Months From Its Accrual; Refunding of Inheritance Tax, and Providing for the Payment of an Estimated Inheritance Tax; and Amending Sections 91-4416 and 91-4418, R.C.M. 1947.	30
16		11	An Act Relating to the Disposition of Motor Vehicle Registration Fees Providing that in Determining the Division Ratio Between City and County Road Funds Only Those Miles of Road Actually Maintained by the City or County May Be Counted; Amending the Montana Highway Code of 1965, Section 7-204, Chapter 197, Laws of 1965.	32
17		15	An Act for the Codification and General Revision of the Laws Relating to Food Service Establishments, Markets and Manufacturers and the Laws Relating to Regulation of Refrigerated Lockers; Repealing Sections 69-2801 Through 69-2813, 69-2815, 69-2816, and 27-601 Through 27-610, R.C.M. 1947; and Providing an Effective Date.	33
18		183	An Act to Regulate Establishments Providing Transient Lodging Space and/or Accommodations; Defining Terms; Providing for Licensure and License Fee; and Providing Procedure for Cancellation or Denial of License; Empowering State Board of Health of Montana to Make and Enforce All Necessary Regulations Including Sanitary Standards for Such Establishments; Providing for Public Hearing on Rules and Regulations; and to Establish Cooperative Agreements With Other Montana Agencies; Providing for Inspection and Report of Inspection; Empowering State Board of Health of Montana to Issue Subpoenas; Prescribing Penalties; Providing for Fee Required by This Act to Supersede Other Fees for Same Purpose; Directing that Unconstitutionality of a Part of This Act Shall Not Affect or Impair the Remainder; and Repealing Sections 34-201, 34-202, 34-203, 34-204, 34-205, 34-206, 34-207, 34-208, 34-209, 34-210, 34-211, 34-212, 34-213, 34-214, 34-215, 34-216, 34-217, Revised Codes of Montana, 1947, as Amended or Supplemented, and Establishing Effective Date.	38
19	19		An Act Creating a Planning and Economic Development Commission and a Department of State Government to Foster Planning, Growth and Diversification of Industry and Commerce; Abolishing the Planning Board; and Repealing Sections 89-301 Through 89-309, R.C.M. 1947.	43
20		37	An Act to Control Weather Modification Activities and Designating the State Water Conservation Board as the Agency to Administer This Act.	48
21		61	An Act Amending Section 67-2211, R.C.M. 1947, Requiring Reports of Abandoned Property Other Than Reports from Banking or Financial Organizations, Cooperatives and Life Insurance Corporations, to Be Submitted to the State Treasurer Every Three (3) Years; Providing That the State Treasurer May Request Reports Each Year, and Requiring the State Treasurer to Furnish Forms for This Report.	53
22		House Sub. 22	An Act Authorizing a Person to Provide for the Disposition of All or Any Part of His Body Upon His Death.	55
23		142	An Act to Amend Section 31-135, R.C.M. 1947, Relating to Fees for Drivers' Licenses, the Disposition Thereof, and Providing That Five Percent (5%) of Such Fees Shall Be Retained by the Counties.	56
24		177	An Act to Increase the Maximum Salary of the Secretary of the Montana Grass Conservation Commission from Five Hundred Dollars ($500) Per Month to Not More Than Ten Thousand Dollars ($10,000) Per Year; Amending Section 46-2305, R.C.M. 1947.	57
25		188	An Act Making It a Criminal Offense to Use a Telephone Either to Terrify, Intimidate, Threaten, Harrass, Annoy or Offend Another by the Use of Obscene, Lewd or Profane Language or the Suggestion of a Lewd or Lascivious Act or by Threat of Injury to Person or Property, or to Attempt to Extort Money or Property from Another, or to Disturb	

HeinOnline -- 1967 vol. I x 1967

Chap.	Senate Bill	House Bill	Title	Page
			Another by Repeated Anonymous Calls, and Providing Penalties Therefor; Providing for Prosecution of Such Offenses at Either the Place Where the Telephone Call or Calls Originated or Where They Were Received; and Repealing All Acts and Parts of Acts in Conflict Therewith.	58
26		224	An Act to Amend Section 26-215, R.C.M. 1947, to Require Nonresident Minors to Have a Fishing License or Be Accompanied by a Licensed Adult and Provide for a Single Limit of Fish Per License When Fishing in Combination.	59
27		428	An Act to Amend Section 40-2820, R.C.M. 1947, Relating to Filing of Annual Statements of Insurance Companies; Adding Penalties for any Director, Officer or Agent or Employee Making, Concurring in or Publishing an Annual Statement Containing False Statements.	60
28		429	An Act to Amend Section 40-2716, R.C.M. 1947, Relating to Examination Reports of Insurance Companies; Adding Penalties for Destruction of Books or Records by Directors, Officers, Agents or Employees of Insurance Companies.	61
29		430	An Act to Amend Section 40-3506, R.C.M. 1947, Relating to False Financial Statements; Adding Provisions for a Penalty and Confinement for Aiding and Abetting the Filing of False Financial Statements of Insurance Companies.	63
30	90		An Act Amending Sections 53-418, 53-422, 53-432, and 53-438, R.C.M. 1947, Relating to Motor Vehicle Liability Insurance Increasing Minimum Proof of Financial Responsibility from Five Thousand Dollars ($5,000) Because of Bodily Injury to or Death of One Person in Any One Accident to Ten Thousand Dollars ($10,000); Increasing from Ten Thousand Dollars ($10,000) Because of Bodily Injury to or Death of Two or More Persons in Any One Accident to Twenty Thousand Dollars ($20,000); Increasing from one Thousand Dollars ($1,000) Because of Injury to or Destruction of Property of Others in Any One Accident to Five Thousand Dollars ($5,000).	63
31	91		An Act Relating to Automobile Liability Insurance Policies; Requiring Such Policies to Contain Uninsured Motorist Provision; Permitting Rejection of Such Coverage at the Option of the Insured; Providing for an Effective Date.	71
32		54	An Act Giving Cities and Town One-half (½) of the Money from Judgments Obtained on Appeals from Police Courts.	72
33		135	An Act Amending Section 26-202.3, R.C.M. 1947, Thereby Enlarging the Definition of a Resident, for the Purpose of Issuing Resident Fishing Licenses, to Include Enrollees of the Job Corps Located Within Montana.	72
34	76		An Act to Amend Section 26-301, R.C.M. 1947, to Allow the Snagging of Silver Salmon and Paddlefish Under Commission Regulation; to Allow the Taking of Paddlefish by Bow and Arrow Under Commission Regulation; and to Increase the Width of Seining Nets to Standard Manufactured Size.	73
35	229		An Act Providing for Simplification of Record Requirements for Beaver Skins Imported Into and Exported Out of Montana, Simplifying the Tagging Requirements for Beaver Trapped in Montana; Amending Section 26-401, R.C.M. 1947.	75
36	70		An Act to Amend Section 66-506 of the Revised Codes of Montana of 1947, Relating to Examinations for License to Practice Chiropractic, to Provide the Montana Board of Chiropractic Examiners May Accept Grades an Applicant Has Received in Written Examinations Given by the National Board of Chiropractic Examiners and May Grant a License to the Holder of a Certificate From Such National Board Without Further Written Examination Under Certain Circumstances, Providing an Effective Date; and Containing a Repealing Clause.	78
37	75		An Act to Amend Section 26-202.3, R.C.M. 1947, Redefining Resident for Hunting and Fishing License Purposes.	79
38		3	An Act Authorizing the Governing Body of an Incorporated City or Town to Adopt Technical Codes by Reference; Amending Section 11-1102, R.C.M. 1947.	80

HeinOnline -- 1967 vol. I xi 1967

Chap.	Senate Bill	House Bill	Title	Page
39		94	An Act to Amend Section 81-304, R.C.M. 1947, to Delete the Provisions Limiting the Number of Sections of Land That May Be Exchanged in Any One (1) Year With the Federal Government to Six (6) Sections; Requiring That Lands Received from the United States Be Located in the Same County as the Relinquished Lands; and Requiring Recognition of Present Lessees or Permittees for Their Use of the Land.	81
40	27		An Act Amending Sections 41-1302 and 41-1303, R.C.M. 1947, Relating to Time for Payment of Wages; Authorizing the Commissioner of Labor to Investigate Violations; and Authorizing Said Commissioner to Accept Assignments of Wage Claims and Institute Proceedings to Enforce Such Claims.	82
41	38		An Act to Amend Section 53-106, R.C.M. 1947, Relating to Number Plates; Providing an Effective Date	84
42		71	An Act Regulating the Retail Sale of Imitation American Indian Arts and Crafts Articles.	87
43		154	An Act to Amend Section 26-1201, R.C.M. 1947, Relating to Game or Fur Farm Permits Before Engaging in the Business or Occupation of Propagating, Owning and Controlling Game Animals, Game Birds or Furbearing Animals of the State of Montana by Excepting Migratory Game Birds and by Providing That the Owning, Controlling, Propagating, Salvage, Banding, Transportation, Shipping, Import, Export, Acquisition and Scientific Collecting of Migratory Game Birds Shall Be in Compliance With Regulations of the State Fish and Game Commission Adopted Pursuant to Section 26-320, R.C.M. 1947, by Removing the Requirement That the Skins, Pelts or Products of Game Farms Be Subject to the Same Royalty Tax and Tagging as Are the Skins or Pelts of Like Wild Animals, and Providing for a Special Tag Purchased from the Commission for a Fee of Five (5) Cents Each.	88
44	16		An Act to Require Assignees of Monies Due from the State of Montana to File Written Notice of Assignment and a Copy of the Assignment Instrument With the State Auditor; Restricting Multiple Assignments; Authorizing Promulgation of Rules and Regulations for Such Assignments by the State Auditor; and Allowing Deductions to Be Made from Salaries of Employees of the State for Specified Purposes.	90
45	120		An Act Authorizing a City and County to Construct, Purchase or Lease, and Manage a City-County Building to House the Offices of City Government and County Government.	91
46	127		An Act Providing Organization Meetings of School Boards Shall Be Held on or Before the Third Saturday in April; Amending Section 75-1621, R.C.M. 1947.	92
47	134		An Act to Amend Section 76-104 C, R.C.M. 1947, to Change the Compensation of Members of the State Soil Conservation Committee from Five Dollars ($5.00) to Twenty Dollars ($20.00) Per Day While on Duty.	93
48		47	An Act to Amend Sections 59-538, 59-801 and 59-802, R.C.M. 1947, Increasing Per Diem and Mileage for State Employees and Officers.	95
49		73	An Act Amending Section 4-349, R.C.M. 1947, Relating to the Size of Interior Electrical Signs Furnished Retailers by Brewers or Wholesalers; Increasing the Permitted Size of Such Signs from Three Hundred (300) Square Inches to Six Hundred Thirty (630) Square Inches; Deleting Provisions Pertaining to the Value of Such Signs and Providing an Effective Date.	97
50		129	An Act Submitting to the Electorate at the November 1968 General Election the Question of Whether or Not the Legislative Assembly Shall Levy a Property Tax, in Addition to Any Levy Authorized by Section 9, Article XII of the Montana Constitution, of Not to Exceed Six (6) Mills on the Taxable Value of All Real and Personal Property Each Year for Ten (10) Years Beginning With the Year 1969 and Appropriate the Revenue From That Levy for the Support, Maintenance and Improvement of the Montana University System.	99

HeinOnline -- 1967 vol. I xii 1967

Chap.	Senate Bill	House Bill	Title	Page
51		168	An Act to Amend Section 53-115, R.C.M. 1947, Relating to the Time for Making Application for Motor Vehicle Registration.	100
52		181	An Act to Clarify Provisions for Reviver of Corporation After Suspension or Forfeiture; Amending Section 84-1515, R.C.M. 1947.	100
53		182	An Act to Permit Release of Lien and Discharge of Property from Force of Lien Imposed With Respect to Corporation License Tax Liability.	101
54		238	An Act to Amend Section 75-3908, R.C.M. 1947, Relating to the Petition and Election Required for Bond Issues Thereunder, to Provide that Proceedings Thereunder May Be Commenced by Resolution on the Part of the Board of Trustees of the School District; Repealing All Acts and Parts of Acts in Conflict Herewith.	102
55		239	An Act to Amend Section 31-105, R.C.M. 1947, Relating to Qualifications, Salary, Probationary Training and Tenure of Office of Highway Patrolmen; Reorganizing Material Into Related Subsections; Creating the Rank of Lieutenant and Changing Title of "Supervisor" to "Chief"; Authorizing Montana Highway Patrol Board With the Approval of the State Board of Examiners and Within the Limits of Legislative Appropriation to Fix Salaries of Patrolmen; Reducing the Residence Requirement for Patrol Applicants from Three (3) Years to One (1) Year and Increasing Suspension Period from Twenty (20) to Thirty (30) Days.	103
56		370	An Act to Amend Section 16-912, R.C.M. 1947, Providing Per Diem Payments in Lieu of Mileage May Be Paid to County Commissioners Living More Than Fifty (50) Miles From the County Seat.	108
57		400	An Act Amending Section 75-1637, R.C.M. 1947, to Provide That School Trustees May Contract, Without Advertisement and Calling for Bids, If the Amount Involved Is Less Than Eight Hundred Dollars ($800) for Third Class Districts Maintaining One or Two Room Schools, Less Than One Thousand Five Hundred Dollars ($1,500) for Other Third Class Districts, or Less Than Two Thousand Five Hundred Dollars ($2,500) for First and Second Class Districts.	109
58	57		An Act to Authorize the board of Trustees of a School District, County High School, Junior College, or Community College to Purchase Liability Insurance for the Death, Injury, or Disability of Any Human Being or for Damage to Property.	110
59	66		An Act Amending Section 45-401, R.C.M. 1947, Relating to Loggers' Liens, to Entitle Partnerships, Corporations and Associations to the Protection of Such Liens.	111
60	67		An Act to Provide That Applicants for Public Assistance Under Chapter 6, Title 71, R.C.M. 1947, (Aid to Needy Blind), Under Chapter 14, Title 71, R.C.M. 1947, (Services to the Blind), and Applicants for Vendor Medical Payments Need Not Agree That the Amount of Assistance Received Shall Be Secured by a Lien on the Applicant's Real Property, Amending Section 71-241, R.C.M. 1947.	112
61	78		An Act to Suspend the Running of Statutes of Limitations, When Taxpayer's Federal Return Is Changed and Taxpayer Fails to Report the Change, in Order to Allow the State of Montana Opportunity to Collect Additional Taxes, If Any, That Are Warranted by the Change in Taxpayer's Federal Return; Amending Sections 84-4920.1 and 84-4938, R.C.M. 1947.	113
62	79		An Act to Make the Determination of Income Tax Correspond More Closely With Provisions of the Internal Revenue Code Which Pertain to the Determination of Taxable Year; Amending Section 84-4901, R.C.M. 1947.	114
63	98		An Act to Repeal Section 48-151, R.C.M. 1947, Relating to a Waiting Period After Divorce.	116
64		58	An Act to Provide That the County Clerks of the District Courts May Take Out Membership in Certain Organizations at the Expense of the County.	116

HeinOnline -- 1967 vol. I xiii 1967

Chap.	Senate Bill	House Bill	Title	Page
65		60	An Act to Amend Section 27-308, R.C.M. 1947, Changing the Compensation Allowed Members of the Montana State Board of Food Distributors.	116
66		70	An Act Amending Section 25-508, R.C.M. 1947, Pertaining to Traveling Expenses of Officers Attending Conventions; Providing That County Clerks of District Courts Shall Be Allowed Transportation Expenses and Per Diem for Attendance at Annual Convention.	117
67		127	An Act Relating to Surety Bonds for City or Town Officers and Employees; Providing That the City Council or Commissioners Shall Purchase All Surety Bonds for City or Town Officers and Employees; Establishing Requirements and Procedures for the Purchase of Such Bonds; Amending Section 11-3244, R.C.M. 1947, by Deleting the Bonding Provisions for County Commissioners; and Repealing Sections 11-722, 11-723, 11-3124, 11-3324 and 40-1727, R.C.M. 1947.	119
68		128	An Act Relating to Surety Bonds for County Officers and Employees; Providing That the Board of County Commissioners Shall Purchase All Surety Bonds for County Officers and Employees; Establishing Requirements and Procedures for the purchase of Such Bonds; Amending Section 16-3204, R.C.M. 1947, by Deleting the Bonding Provisions for County Auditors; and Repealing Sections 6-201, 6-202, 6-302, 6-336, 16-904, 16-3602, 40-1727, and 93-407, R.C.M. 1947.	120
69		145	An Act Amending Sections 71-106 and 71-222, R.C.M. 1947, to Eliminate the Per Capita Tax or Poll Tax of Two Dollars ($2) for the County Poor Fund and to Increase Poor Fund Levy to Seventeen (17) Mills	122
70		180	An Act Amending Section 92-614, R.C.M. 1947, Providing for Extraterritorial Application of the Workmen's Compensation Act; Providing for Reciprocity With Other States; and Providing for the Administration of Such Extraterritorial and Reciprocity Provisions.	124
71		194	An Act to Amend Section 40-2821, R.C.M. 1947, by Extending the Period When the Tax on Net Insurance Premiums Shall Be Two and One-Quarter Percent (2¼%) of the Premiums from the Calendar Years 1965 and 1966 to the Calendar Years 1967 and 1968.	126
72		205	An Act Relating to the Assessment for the Purpose of Taxation of Bank Stock, Moneyed Capital, and Moneys and Credits, in Each County Wherein a Bank Office Is Located and the Payment of Taxes Thereon; Providing for the Furnishing of Certain Information to the County Assessor of Each Such County by the Bank Officials and Repealing All Acts and Parts of Acts in Conflict Herewith.	129
73		206	An Act Amending Section 25-210, R.C.M. 1947, to Provide That Naturalization Fees Be Paid Over to the County Treasurer for Credit to the General Fund of the County.	130
74		208	An Act to Amend Section 53-101, Revised Codes of Montana, 1947, Relating to the Duties of the Registrar of Motor Vehicles	130
75		257	An Act Providing for the Appointment, Qualifications and Duties of the State Entomologist; Providing That Expenses Be Paid Out of the Legislative Appropriation for His Office; and Repealing Section 82-801, 82-802, 82-803 and 82-804, R.C.M. 1947.	132
76		292	An Act Relating to Interstate Compact on Juveniles Authorizing the State of Montana to Enter Into a Compact With Any of the United States, Its Territories and Possessions for the Return of Absconding or Escaping Juveniles and Mutual Assistance in Supervision of Juveniles on Probation and Parole; Providing for the Appointment of a Juvenile Court Compact Administrator, Prescribing Powers and Duties; and Providing an Effective Date.	134
77		387	An Act Creating an Advisory Committee on Boiler Rules to Advise the Industrial Accident Board; Authorizing the Committee to Promulgate Rules for Safe Construction, Installation, Inspection and Repair of Boilers; Providing for Special Boiler Inspections; Regulating New Boiler Installations; and Excluding Certain Types of Boilers from the	

HeinOnline -- 1967 vol. I xiv 1967

Chap.	Senate Bill	House Bill	Title	Page
			Provisions of This Act; Amending Sections 69-1501, 69-1503, 69-1512 and 69-1513, R.C.M. 1947.	146
78		417	An Act to Amend Section 79-1202, R.C.M. 1947, Relating to Moneys to Be Invested by the State Board of Land Commissioners and the Employment and Obtaining of Investment Counsel and Services by Said Board.	151
79		442	An Act to Provide That Members of a City-County Consolidated Government Commission Shall Receive Compensation Not to Exceed That Allotted Aldermen of Cities of the First Class; Providing That They Receive the Same Mileage as County Commissioners for Travel in the Performance of Their Duties; Amending Section 11-3413, R.C.M. 1947.	155
80		443	An Act to Provide That Commissioners of City-County Consolidated Governments May Let Contracts for a Value Up to Two Thousand Dollars ($2,000) Without Advertising for Bids; Amending Section 11-3516, R.C.M. 1947.	155
81		444	An Act Concerning Tax Levies in City-County Consolidated Governments, Providing That Tax Levies for Current Expenses Shall Not Be in Excess of the Maximum Levies Under Law for the Cities and Counties Which Have Been Consolidated; Changing the Limitation on Levies for Special Services; Amending Section 11-3455 and 11-3458, R.C.M. 1947.	156
82		445	An Act Authorizing Political Agencies of the State of Montana to Enter Into Interlocal Agreements for the Exercise Jointly of Their Respective Powers and Privileges; Specifying the Form and Content of Interlocal Agreements; Providing for the Approval of Said Agreements by the Attorney General of the State of Montana and for the Filing of Said Agreements and Authorizing Public Agencies to Appropriate Funds for and to Dispose of Property to Administrative Joint Boards Created by Interlocal Contracts; Enacting a Severability Clause.	157
83		170	An Act to Amend Section 32-3601, R.C.M. 1947, Enacted as Section 7-101, Chapter 197, Laws of 1965, Increasing Permissive Levy for General Road Tax.	159
84	8		An Act to Amend Section 75-2703, Revised Codes of Montana, 1947, as Last Amended by Chapter 177, Laws of Montana, 1965, Relating to Per Diem of Board Members and Replacing Material Inadvertently Removed by House Bill 38 of the 1965 Legislative Session and Providing an Effective Date.	160
85	62		An Act Authorizing Elections in School Districts for a School District Building Reserve Fund Not to Exceed Five Per Cent of Taxable Value of School District Property to Be Used for Buildings and Equipment, Providing for Tax Levy, Requiring Election for Issuance of School Bonds Within Limitation of Law If Required and Allowing for Investment of Funds.	163
86	86		An Act to Provide That in the Event a Vacancy Occurs in a Multi-County Senatorial or Representative District, Before the General Election, the Same Shall Be Filled by a Committee Consisting of Three (3) Members from Each County Contained in the Senatorial or Representative District; Amending Section 23-811, R.C.M. 1947.	165
87	100		An Act to Amend Section 62-305, R.C.M. 1947, to Provide That Fees and Charges Collected for the Use of State Parks Shall Be Deposited in the Earmarked Revenue Fund to the Credit of the State Fish and Game Commission.	166
88	137		An Act to Amend Section 66-1302, R.C.M. 1947, by the Adding Thereto a Provision Authorizing the Montana State Board of Examiners in Optometry to Seek to Enjoin Violations of Said Section, to Employ Legal Counsel, Authorizing the District Courts to Enjoin Such Violations, and Providing for the Exceptions Thereto.	167
89	230		An Act Amending Section 32-3702, Revised Codes of Montana of 1947 to Refer to the 1930 and 1950 Censuses for Purposes of Determining Population in Place of the 1960 Census; Containing a Repealer Clause and Providing an Effective Date.	169

HeinOnline -- 1967 vol. I xv 1967

Chap.	Senate Bill	House Bill	Title	Page
90		38	An Act Requiring Flagmen Escorts Preceding and Following Livestock Herded on Interstate or State Primary Highways and Prohibiting Herding Livestock on Said Highways During Nighttime; and Providing Exceptions.	170
91		44	An Act to Amend Section 5-528, R.C.M. 1947, Relating to Joint Deposits and Right of Survivorship With Respect to Such Deposits.	171
92		63	An Act to Amend Section 32-21-149, R.C.M. 1947, Relating to Restrictions Placed on Tire Equipment; Permitting the Use of Specially Designed Pneumatic Tires When Required for Safety Because of Snow, Ice or Other Conditions Tending to Cause a Vehicle to Skid.	172
93		74	An Act to Amend Section 11-1602, R.C.M. 1947, to Enlarge the Jurisdiction of Police Courts to Provide They Have Jurisdiction of Violations of Section 94-35-106.2, R.C.M. 1947, Prohibiting Possession of Beer or Liquor by a Minor; Prohibiting the Selling, Giving Away or Disposing of Intoxicating Liquor to Minors in Violation of Section 94-35-106, R.C.M. 1947; and Repealng All Acts and Parts of Acts in Conflict Herewith.	173
94		76	An Act to Amend Section 11-1107, R.C.M. 1947, to Provide That Ten Percent (10%) of the Qualified Voters of Any City or Town May by Petition Demand That Any Ordinance Be Submitted to the Electors of Any City or Town; and Repealing All Acts and Parts of Acts in Conflict Herewith	174
95		112	An Act Amending Section 59-516, R.C.M. 1947, to Provide That a School District Officer May Destroy Any Claim, Warrant or Voucher, After a Period of Twenty-five (25) Years.	174
96		125	An Act Validating, Ratifying, Approving and Confirming Bonds and Other Instruments or Obligations, Heretofore Issued by Public Bodies of This State, and All Proceedings Heretofore Taken by Such Public Bodies, to Authorize and Issue Such Bonds, Instruments and Other Obligations, However Described, and Providing That This Act May Be Cited as "The 1967 Bond Validating Act"; Containing a Repealing Clause and Providing an Effective Date.	175
97		163	An Act Permitting a Levy of Not to Exceed Two (2) Mills for City and County Emergencies	176
98		165	An Act Authorizing Voluntary Participation in Programs of Research and Development in the Field of Science, Health, Education and Natural Resources by the Governing Boards of State Penal, Corrective or Custodial Institutions, and by the Inmates Thereof for Use in Welfare and Rehabilitation Work Within Said Institutions.	178
99		166	An Act Authorizing Programs of Research and Development in the Fields of Science, Health, Education and Natural Resources Through Authorized Agencies of the Montana University System in Cooperation With Other Governmental and Private Agencies and Providing That the Same Shall Not Be a Charge Upon the State of Montana.	179
100		169	An Act Prohibiting Speed Contests and "Drag Racing" on the Public Highways or Streets Unless Written Permission Is Granted by the Authorities Having Jurisdiction Over Such Highways or Streets; Fixing Penalty for Violation of Act.	181
101		184	An Act to Amend Section 71-202, Revised Codes of Montana, 1947, as Amended, to Provide for Increasing the Per Diem Allowance of State Welfare Board Members from Fifteen Dollars ($15) Per Day to Twenty Dollars ($20) Per Day, and to Provide for Increasing Annual Limitation of Per Diem Payments from One Thousand Dollars ($1,000) to Twelve Hundred Fifty Dollars ($1,250).	181
102		191	An Act to Amend Section 94-1104, R.C.M. 1947; Providing That Agreements to Add to Bid Prices for the Purpose of Refunds or Cost Sharing With Other Bidders or Returning Any Part Thereof to an Association Shall Be Unlawful.	183
103		199	An Act to Amend Section 75-106, R.C.M. 1947, Increasing the Amount of Per Diem to Members of the State Board	

HeinOnline -- 1967 vol. I xvi 1967

Chap.	Senate Bill	House Bill	Title	Page
			of Education and Removing the Maximum Limitation on Annual Expenses.	184
104		230	An Act Providing for Refund of Tax Paid on Special Fuel When Special Fuel Is Not Consumed on the Public Roads and Highways of This State or When There Has Been an Overpayment of Special Fuel Tax; Providing for a Refund of the Temporary Permit Fee When a Special Fuel Vehicle Permit Is Obtained for the Same Vehicle; Providing an Expiration Date; Amending Sections 84-1836 and 84-1837, R.C.M. 1947.	185
105		231	An Act to Require the Purchase of a Special Fuel User's Temporary Trip Permit If a Valid Special Fuel Vehicle Permit Is Not Carried in the Vehicle; Amending Section 84-1842, R.C.M. 1947.	186
106		232	An Act to Require That Special Fuel Dealers or Users, Who Do Not Have Their Records in Montana, Must Accompany Such Records If They Are Furnished to the State Board of Equalization for Review; Amending Section 84-1838, R.C.M. 1947.	187
107		244	An Act to Amend Section 31-222, R.C.M. 1947, Authorizing Members to Nominate and Change Beneficiaries at Time of and After Retirement; Providing an Effective Date.	188
108		245	An Act to Institute and Maintain in the Board of Health a Regulatory Program for Sources of Ionizing Radiation; to Provide for Compatibility With the Standards and Regulatory Provisions of the Federal Government for a Single Effective System of Registration of Persons Handling Radioactive Materials or Equipment Using Such Materials; Setting Forth Penalties for Noncompliance.	188
109		250	An Act Amending Section 59-1105, R.C.M. 1947, and Section 59-1106, R.C.M. 1947, as Amended by Section 5, Chapter 248, Laws of 1965, to Provide for the Investment of the Social Security Contribution Fund in Investments of the Character Authorized for the Long Term Investment Fund, and to Permit the Deposit of Interest Earned Thereon to the Earmarked Revenue Fund, Social Security Division Account, for Use in Administering Sections 59-1101 Through 59-1113, R.C.M. 1947.	198
110		265	An Act Providing for Service of Summons in Justices' Courts According to Montana Rules of Civil Procedure, Rule 4D (2), (3), (4), (5), (8), (9); Amending Section 93-6711, R.C.M. 1947.	200
111		269	An Act to Amend Section 68-1413, R.C.M. 1947, to Require Twenty-five (25) Years Creditable Service to Qualify for One-half (½) of Average Final Salary in the State Game Warden Retirement System.	201
112		280	An Act to Amend Initiative Measure No. 54 Adopted by the Vote of the Legal Electors of the State of Montana at the Regular Election Held in the State of Montana on November 7, 1950, as Amended by Chapter 270, Session Laws of 1963, Relating to Section 9 Thereof, by Providing a New Date for the Submission of Applications for Payment of the World War I Honorarium To Wit: January 1, 1968; Repealing All Acts and Parts of Acts in Conflict Herewith; Providing an Effective Date.	201
113		317	An Act Amending Section 40-4211, Revised Codes of Montana, 1947, Relating to Credit Life and Disability Insurance Premiums and Refunds; Adding a Provision That Premiums Charged a Debtor for Credit Life and Disability Insurance Not Exceed Premiums Charged by the Insurer.	202
114		351	An Act to Amend Section 53-106.7, R.C.M. 1947, Enacted as Section 1, Chapter 135, Laws of 1965, Relating to Distinctive Plates for National Guardsmen.	203
115		425	An Act Amending Section 6-402, R.C.M. 1947, Relating to Materialmen Supplying Subcontractor to Give Notice to Contractor, to Extend Notice Period and Allow Notice by Certified Mail.	204
116		426	An Act to Require the State Controller to Schedule the State's Building Program in Such a Manner as to Minimize the Importance of Weather on Construction and to Stabilize the Work Opportunities of the Construction Labor Force.	205

HeinOnline -- 1967 vol. I xvii 1967

Chap.	Senate Bill	House Bill	Title	Page
117		457	An Act Authorizing School Boards to Make and Provide an Appropriation in School Budgets for Payment to a Reserve Fund for Teachers' Retirement Not to Exceed Thirty-five Percent (35%) of the Total Amount Budgeted Annually for the Retirement Fund to be Used for Payment of Teachers' Retirement Expenses Incurred at the Beginning of Each School Year.	205
118		506	An Act Providing the Absence of a Regularly Enrolled Student After Ten (10) Days Shall Not be Counted in Aggregate Days of Absence to Determine the Average Number Belonging; Amending Section 75-3611, R.C.M. 1947.	206
119	41		An Act Approving and Enacting Into Law the Interstate Library Compact and Designating the Executive Officer of the State Library Commission as Compact Administrator for Said Compact.	208
120	81		An Act Amending Section 16-1009, R.C.M. 1947, to Permit County Commissioners to Sell Property Valued at One Hundred Dollars or Less for Real Property and One Thousand Dollars or Less for Personal Property at a Private Sale Without Publication of Notice.	214
121	116		An Act Amending Section 81-502, R.C.M. 1947, as Amended by Chapter 257, Laws of 1965, to Increase the Maximum term for Coal Mining Leases on State Lands to Twenty Years and to Increase the Fee for Issuing Such Leases to Five Dollars.	217
122	126		An Act Empowering the State Aeronautics Commission to Require Commercial Air Operators to Procure Insurance or Other Adequate Protection Against Liability for the Payment of Damages for Personal Bodily Injuries, Including Death and Property Damage, as a Result of an Accident.	217
123	130		An Act to Authorize Participation in the Child Nutrition Act of 1966 and Other Child Feeding Programs by the Superintendent of Public Instruction and School Boards; Amending Sections 75-4802, 75-4803, 75-4805 and 75-4806; Containing a Repealing Clause; and Providing an Effective Date.	219
124	181		An Act Amending Section 43-107, R.C.M. 1947, to Redefine Congressional Districts.	222
125	205		An Act Relating to Payment to Silicotics; Amending Sections 71-1003, 71-1004, and 71-1008, All Revised Codes of Montana, 1947, As Amended; Repealing All Acts and Parts of Acts in Conflict Herewith.	222
126		77	An Act Amending Section 11-1104, R.C.M. 1947, Providing That Fifteen Percent (15%) of the Legal Voters of Any City or Town May Propose Ordinances by Petition; Providing for Passage of Said Petition by City Council and Submission of the Ordinance to People; and Repealing All Acts and Parts of Acts in Conflict Herewith.	224
127		124	An Act to Repeal Section 75-410, R.C.M. 1947, Which Authorizes Refunding Part of the Transportation Costs to Students of the Montana University System; Providing an Effective Date.	227
128		141	An Act Amending Section 16-1015, R.C.M. 1947, to Give County Commissioners Authority to Levy an Annual Tax of Twenty Mills to Defray Current County Expenses.	228
129		185	An Act Removing the Requirement for a School Diploma and Increasing the Number of Indians Who May Attend Units of the University of Montana Without Payment of Fees; Defining Who May Attend; Amending Section 75-506.1, R.C.M. 1947.	228
130		220	An Act to Amend Section 51-303, R.C.M. 1947, Enacted as Section 2, Chapter 258, Laws of 1965, Relating to the Definition of "Cost to the Wholesaler" and "Cost to the Retailer" as Set Forth in the Montana Cigarette Sales Act.	229
131		253	An Act to Amend Sections 66-114 and 66-115, R.C.M. 1947, by Deleting Those Portions Thereof Which Prescribe the Scale of Compensation for Architects on Public Buildings; and Repealing All Acts and Parts of Acts in Conflict Herewith.	232

HeinOnline -- 1967 vol. I xviii 1967

Chap.	Senate Bill	House Bill	Title	Page
132		260	An Act to Add Additional Requirements for the Renewal of Cosmetology Teachers' Licenses, and Amending Section 66-816, R.C.M. 1947.	234
133		262	An Act to Increase Compensation of Members of the Montana State Examining Board of Cosmetology From Ten Dollars ($10) Per Day for Attendance at Board Meetings to Twenty Dollars ($20) Per Day, Amending Section 66-809, R.C.M. 1947.	235
134		291	An Act Providing for the Commitment of a Child Held on a Charge Under Which the Child Could be Adjudged a Delinquent to a Reception and Evaluation Center for Children for Diagnostic Study Prior to Hearing and Judgment; Amending Section 10-611 Relating to Hearing and Judgment in Juvenile Cases.	236
135		297	An Act Making It Unlawful for Any Person to Obtain, With Intent to Defraud, Food, Lodging or Other Similar Accommodations; Enumerating Circumstances Which Constitute Prima Facie Evidence of Intent to Defraud; and Repealing Section 94-3550, R.C.M. 1947.	237
136		320	An Act Relating to Cities and Towns; Providing for the Acquisition of Off-Street Parking Sites in Cities and Towns; Providing for Improvement of Such Off-Street Parking Sites; Providing for the Issuance of Improvement Bonds; Providing for the Formation of Public Improvement District to Provide Off-Street Parking Facilities; Providing for the Leasing of Land for Such Off-Street Parking Sites; Providing for Improving Such Off-Street Parking Sites; Providing for the Payment of Cost Thereof by Annual Assessment of Property in the District; Amending Sections 11-2201 and 11-2214, R.C.M. 1947; Repeal of Conflicting Acts.	238
137		359	An Act Declaring it Unlawful to Transport on the Highways of This State More Than Ten (10) Coniferous Trees, Unless the Transporter Has a Bill of Sale in His Possession Show-His Title for the Trees and Providing a Penalty for Violation of This Act.	247
138		377	An Act to Amend the Architectural Practice Act; Amending Section 66-108, R.C.M. 1947, by Increasing the Fees Payable by Applicants for Examination; Amending Section 66-109, R.C.M. 1947, by Increasing the Per Diem Compensation Paid to Members of the Board of Architectural Examiners; Amending Section 66-110, R.C.M. 1947, by Increasing the Amount of the Annual License Fee Paid by Architects; Amending Section 66-112, R.C.M. 1947, by Specifying Certain Acts Shall Constitute Unprofessional Conduct and Be Cause for Revocation of Certificate to Practice; Repealing Section 66-104, R.C.M. 1947; Providing a Severability Clause; and Repealing All Acts and Parts of Acts in Conflict Herewith.	247
139		435	An Act Amending Sections 23-526 and 23-530, R.C.M. 1947, to Conform to Changes Made in Requirements for Registration in School Elections.	251
140		436	An Act Providing Qualified Voters in an Extra Levy School Election to be Registered; Amending Section 75-3801, R.C.M. 1947.	252
141		449	An Act to Provide That a Public Contractor Who is Working Over the Contract Time on a Previously Awarded Contract From the State of Montana, or Any Board, Commission or Department Thereof, or From Any Board of County Commissioners, or From Any City or Town Council, or Agency Thereof, May Not Submit Any Additional Bids or Proposals to Any of the Above Mentioned Agencies Until He Has Completely Executed the Present Contract Upon Which He Is Working Beyond Contract Time; Amending Section 84-3507, R.C.M. 1947.	254
142		475	An Act Providing for Meeting Dates of the Montana Trade Commission; Providing for the Giving of Notice of Violation of the Unfair Practices Act; Providing for the Showing of Probable Cause, and of Investigation and Report by Said Commission; Amending Section 51-113, R.C.M. 1947, Enacted as Section 12, Chapter 80, Laws 1937, as Amended by Section 1, Chapter 50, Laws 1939.	255
143		508	An Act to Amend Section 32-3306, R.C.M. 1947, Relating to Additional Gross Loaded Weight Fees on Certain Farm	

Chap.	Senate Bill	House Bill	Title	Page
			Vehicles; Including Certain Vehicles of Soil Conservation and Land Leveling Contractors Among the Vehicles Subject to the Fees.	260
144	121		An Act to Change the Qualifications for Aldermen; Amending Section 11-714, R.C.M. 1947; and Providing an Effective Date.	261
145	129		An Act to Provide for Authorized Extraordinary Levies to Service and Pay Bonded Indebtedness of Such Municipalities and to Pay Judgments Obtained Against Them, May be Made by Such Municipalities in Addition to Such All-Purpose Levy; and Repealing All Acts and Parts of Acts in Conflict Herewith.	261
146	135		An Act to Amend Section 76-103 and 76-107, R.C.M. 1947 to Allow Municipalities to Become a Part of Existing Soil and Water Conservation Districts. Incorporated Municipalities to be Represented on the Board of Supervisors by Two (2) Members Appointed by the Legislative Bodies of Such Incorporated Municipalities.	262
147	136		An Act Amending Section 73-201, R.C.M. 1947, to Provide for Constructive Notice of Instruments and Documents Affecting Title to Real Estate Executed or Recorded Before the Signator Thereto Acquires any Interest in the Concerned or Described Premises.	265
148	145		An Act to Amend Section 28-109, of the R.C.M. 1947, Relating to the State Board of Forestry; to Provide for the Classification of Additional Lands for Fire Protection Purposes; and to Provide for an Effective Date.	266
149	146		An Act Amending Section 28-105, R.C.M. 1947, to Require That Before a Forest Fire Protection District May be Created a Hearing Shall be Held After Notice Given to All Owners to be Affected and to Require Approval Thereof by no Less Than 51% of the Owners Representing at Least 51% of the Acreage Included in the Proposed District; and Providing an Effective Date	267
150	158		An Act to Amend Section 68-203, Revised Codes of Montana, 1947, Pertaining to Employees in the Sixth and Seventh Class Counties Compensated Under the Public Employees Retirement System Act, Working for a County Hospital or County Rest Home and Providing an Effective Date.	269
151	171		An Act to Amend Section 23-902, R.C.M. 1947, to Change the Date of the Primary Election.	271
152	209		An Act Amending Section 14-132, Revised Codes of Montana, 1947, Authorizing the State Examiner to Designate Accountants or Representatives of the Montana Credit Unions League as Examiners of Credit Unions, Using Such Forms and Providing Such Information as the State Examiner May Require, and Providing for Payment for Examinations by Such Designees.	272
153	240		An Act to Amend Section 75-1904, R.C.M. 1947, Providing For a Census of Handicapped Children When Required by the Superintendent of Public Instruction, Instead of Quadrennially.	273
154		59	An Act to Submit to the Qualified Electors of Montana an Amendment to Section 31 of Article V, of the Constitution of the State of Montana, Relating to the Terms of Office and Salaries of Public Officers; to Remove the Prohibition Against Increase of Such Salaries During the Terms for Which Such Officers Have Been Elected or Appointed.	274
155		Sub. 64	An Act to Amend Section 11-729, R.C.M. 1947, Relating to the Salary of the City Attorney, Providing That Said Salary Must be Fixed by Ordinance Deleting Certain Portions of the Act Fixing the Salary at Specified Amounts; and Repealing All Acts and Parts of Acts in Conflict Herewith.	275
156		Sub. 65	An Act to Amend Section 11-731, R.C.M. 1947, Relating to Salary of City Clerk, Providing That Said Salary Must be Fixed by Ordinance; Deleting Certain Portions of the Act Fixing the Salary at Specified Amounts and Repealing All Acts and Parts of Acts in Conflict Herewith.	275

HeinOnline -- 1967 vol. I xx 1967

Chap.	Senate Bill	House Bill	Title	Page
157		72	An Act to Amend Section 11-967, R.C.M. 1947, to Provide That City and Town Councils Have Power to Regulate and Provide for the Construction of Sidewalks, Foot Pavements, Curbs, Gutters, or any Combination Thereof, and Repealing All Acts and Parts of Acts in Conflict Herewith.	276
158		483	An Act Providing for the Montana Water Resources Act of 1967; Providing an Expanded Statement of State Necessity and Policy Relating to Water Resources; Amending Section 89-103, R.C.M. 1947, Providing That the Name of the State Water Conservation Board Shall be Changed to Montana Water Resources Board; Providing Additional Powers for the Montana Water Resources Board; Providing for a Comprehensive Inventory of Water Resources; Providing for a State Water Plan; Amending Section 89-102, R.C.M. 1947, Providing Additional Definitions; Amending Section 89-813, R.C.M. 1947, Providing That County Clerks and Recorders Shall Furnish the Montana Water Resources Board With Copies of Water Appropriations and Transfers of Water Appropriations; and Repealing Section 89-101, R.C.M. 1947.	277
159		215	An Act Providing That Reports Under the Volunteer Firemen's Pension Plan Shall be Made by the Public Employees' Retirement System, and That Reports Under the Volunteer Firemen's Compensation Act Shall be Made by the Industrial Accident Board; Amending Section 11-2029, R.C.M. 1947.	283
160		216	A Bill to Clarify the Operation and Administration of the Volunteer Firemen's Pension Plan, to Designate the Public Employees' Retirement Board to Operate and Administer the Plan, and to Provide for Annual Reports to the Public Employees' Retirement Board of the Balance Remaining in the Volunteer Firemen's Compensation Fund at the End of Each Fiscal Year, to Authorize the Public Employees' Retirement Board to Make Rules and Regulations in Connection with the Administration of the Plan, and to Provide That Expenses in Connection With Operation of the Plan Shall be a Charge Against the Fund; Amending Sections 11-2022, 11-2024, 11-2026 and 11-2027, R.C.M. 1947.	284
161		217	An Act to Extend to September 1, 1968, the Time for Filing Certificates for Credit for Prior Service for the Purpose of the Volunteer Firemen's Pension Plan; Amending Section 11-2023, R.C.M. 1947.	290
162		282	An Act Amending Section 69-3601, R.C.M. 1947, Permitting Any County, City or Town to Contract With Any County, City or Town for the Purpose of Establishing a Joint Ambulance Service; Providing That Each County, City or Town May Levy a Tax Up to One (1) Mill to Defray the Costs of Ambulance Service; and Providing for Joint Ambulance Service Between Counties, Cities or Towns Upon Petition of Not Less Than Fifteen Percent (15%) of the Registered Voters of the Counties, Cities or Towns at the Last General Election and Provide an Effective Date.	292
163		40	An Act to Allow Any School District to Establish Special Education Classes for Four (4) or More Educable Mentally Retarded or Physically Handicapped Children; to Receive Reimbursement from the State and Reducing Special Teaching Program Petition Requirements to Parents or Guardians of Four (4) Children; Amending Section 75-5003 and 75-5005, R.C.M. 1947.	292
164		99	An Act Amending Section 75-5001, R.C.M. 1947, Relating to Special Education of Mentally Retarded and Physically Handicapped Children, Permitting School Boards, Under Certain Circumstances, to Establish Special Education Programs for Mentally Retarded and Physically Handicapped Children Under the Age of Six (6) Years, and to Receive Reimbursement From the State.	295
165		105	An Act Requiring the Fish and Game Commission to Print Tagging Instructions and Penalty for Hunting on Private Property Without Permission of Landowner on the Back of All Big Game Licenses.	297
166		113	An Act Amending Section 59-514, R.C.M. 1947, to Provide That School District Officers May Destroy Worthless Records Upon the Order of the Board of Trustees.	298

HeinOnline -- 1967 vol. I xxi 1967

Chap.	Senate Bill	House Bill	Title	Page
167		120	An Act to Amend Section 93-7712, R.C.M. 1947, Relating to the Taking and Use of Depositions in Justice Courts.	299
168		122	An Act Designating the Pleadings to be Allowed in Justice Court and Designating the Form Thereof.	299
169		152	An Act Specifying a Penalty If a Person Knowingly Procures or Assists in the Production, Procurement, or Distribution of Any Document Falsely Designating the Age or Identity of Any Person.	299
170		171	An Act to Amend Section 82-1516, R.C.M. 1947, to Provide a Time Limit Within Which Actions, as Provided in the Section, May be Brought Against the State Board of Hail Insurance.	300
171		209	An Act to Provide for the Certification and Regulation of Intrastate Air Carriers by the State Aeronautics Commission.	301
172		213	An Act Requiring Disability Insurance and Workmen's Compensation Policies to Provide the Insured Shall Have Full Freedom of Choice in the Selection of Any Duly Licensed Physician, Osteopath, Chiropractor, Optometrist or Chiropodist for Treatment of Illness or Injury; Providing a Like Freedom of Choice in the Selection of Pharmacists; Providing an Effective Date; and Containing a Repealing Clause.	307
173		237	An Act to Amend Section 31-104, R.C.M. 1947, Relating to the Term, Salary, Supervisory Power and Resident Requirement of the Highway Patrol Supervisor; Substituting the Name "Chief" for Supervisor; Designating the Rank of Such Position as Colonel; and Authorizing Board to Establish Salary Within Legislative Appropriation.	308
174		255	An Act to Amend Section 25-508, of the Revised Codes of Montana, 1947, Relating to Traveling Expenses of Officers Attending Conventions.	309
175		266	An Act to Amend Section 32-21-105, R.C.M. 1947, Relating to Persons Operating Motorcycles on Public Streets or Highways; Restricting Number of Passengers; Prohibiting Unsafe Acts or Interference With Other Traffic.	311
176		275	An Act Creating the Position of Criminal Investigator Within the Department of the Attorney General and Defining the Duties of Said Position.	312
177		276	An Act for the Establishment of a State Highway Traffic Safety Program, Setting Forth Definitions; Establishing Administration Thereof, Authorizing Political Subdivision Participation, Permitting the Acceptance of Federal Funds, the Collection and Expenditure of Monies; Providing for Programs for Driver Education Training and Certification of Instructors, Regulation of Schools Including Licensing Thereof; Adult Driver Training and Retraining Programs; Research, Development and Procurement of Practice Driving Facilities, Simulators and Teaching Aids, Licensing, Revocation and Regulation of Drivers and Operators of All Motor Vehicles.	313
178		277	An Act Amending Section 32-2805, R.C.M. 1947, to Increase Payments to County Surveyors and Members of County Boards of Commissioners From Fifteen Dollars ($15) to Twenty Dollars ($20) Per Day For Inspecting Roads and Construction Work.	317
179		283	An Act to Provide That Vacancies in Either House of the Legislative Assembly Shall be Filled by the Board or Boards of County Commissioners of the County or Counties Concerned.	317
180		324	An Act Relating to Validation of Judicial Sales Prior to January 1, 1967, of Real Property and Curing Defects or Irregularities in the Issuance of Execution, Manner of Making or Conducting the Sale, or in the Recitals or References in Sheriff's Deeds.	318
181		325	An Act Validating Certain Instruments Affecting Real Property and Which Were Erroneously Executed or Acknowledged Prior to January 1, 1967; Imparting Notice by Recording Thereof; and Providing That Duly Certified Copies	

HeinOnline -- 1967 vol. I xxii 1967

Chap.	Senate Bill	House Bill	Title	Page
			Thereof May be Read in Evidence With Like Effect as Copies of an Instrument Duly Acknowledged and Recorded.	319
182		327	An Act Validating Deeds and Conveyances in Sales of Land and Personal Property Made by Trustees, Executors, Administrators and Guardians Prior to January 1, 1967, Curing Defects and Irregularities in Such Sales.	320
183		328	An Act Validating Deeds and Conveyances Made Prior to January 1, 1967 Which Are Defective in Execution or Acknowledgement, Providing That Such Instruments Shall be Conclusive Evidence of Title Against the Grantors.	320
184		329	An Act to Validate Records of Court Proceedings Prior to January 1, 1967, Containing Defects, Omissions, Informalities or Irregularities in Obtaining a Judgment or Decree Affecting Real Property, in Which Time for Appeal Has Expired; Providing That Duly Certified Copies of Such Judgment or Decree May be Read in Evidence With the Same Effect as Judgments or Decrees Duly and Regularly Obtained, Recorded and Entered.	321
185		339	An Act to Amend Section 79-1202, Revised Codes of Montana, 1947, as Last Amended by Chapter 67, Laws of Montana, 1963, Relating to Investment of Funds of the State of Montana; and Providing an Effective Date.	322
186		342	An Act Amending Section 11-726, R.C.M. 1947, Relating to Salaries and Compensation of Police Judges, Providing That Same Must be Fixed by Ordinance.	326
187		373	An Act to Amend Section 93-9913, Revised Codes of Montana, 1947, as Amended by Chapter 182, Laws of 1965, Relating to Payment for Removal of Personal Property in Eminent Domain Proceedings and Providing for Payment of Interest.	326
188		427	An Act to Provide That an Individual Who Has Received a Lump Sum Settlement Under the Workmen's Compensation Law Shall Not Be Barred from Receiving Benefits Under the Unemployment Compensation Law for Any Week Except for the Week in Which the Lump Sum Payment Is Paid; Amending Section 87-106, R.C.M. 1947.	327
189		479	An Act to Amend Section 11-728, R.C.M. 1947, to Provide That the Annual Compensation of the City Treasurer May be Set by Ordinance; and Repealing All Acts and Parts of Acts in Conflict Herewith.	332
190		82	An Act Raising Nighttime Speed Limit on Controlled Access Highways to Sixty-five (65) Miles Per Hour; Amending Section 32-2144, R.C.M. 1947.	332
191	84		An Act Requiring the Registrar of Motor Vehicles to Issue a New Certificate of Ownership and a New Certificate of Registration for a Vehicle Title Which Has Been Involuntarily transferred and Which Has Not Been Previously Registered in This State; Amending Section 53-109, R.C.M. 1947.	334
192	108		An Act to Amend Section 92-704, Revised Codes of Montana, 1947, as Last Amended by Increasing the Number of Weeks of Compensation to be Paid for Injury Causing Death From Five Hundred Weeks to Six Hundred Weeks.	337
193	147		An Act Authorizing and Empowering the Supreme Court of the State of Montana to Regulate by Rules, the Pleading, Practice and Procedure in Criminal Cases in the Courts of the State of Montana, for the Purpose of Simplifying Criminal Proceedings and Promoting the Speedy Determination of Such Proceedings Upon Their Merits.	339
194	180		An Act Apportioning the Legislative Assembly; Providing for Filling of Vacancies in the Legislative Assembly; and Amending Sections 23-803, 23-910, 23-921, 23-1109, 23-1111, 23-1807, 23-1812, 23-1904, 23-2402 and 23-2403, R.C.M. 1947; and Repealing Sections 16-508, 16-518, 23-1108, 23-1809, 23-1810, 23-1812, 43-101, 43-102, 43-103, 43-104, 43-105, 43-106, 43-203 and 43-204, R.C.M. 1947.	340
195		530	An Act Providing for Additional Public Contractor's License Fees for All Public Construction Work in Montana Defining Terms, Prescribing Method of Collection and Disposition of Fees, Allowing a Credit on Corporation or Income	

HeinOnline -- 1967 vol. I xxiii 1967

Chap.	Senate Bill	House Bill	Title	Page
			Tax and Personal Property Taxes Paid in Montana by Licensees on Personal Property Used in Licensees' Contracting Business, Providing a Penalty and an Effective Date; Amending Sections 84-3501, and 84-3505, R.C.M. 1947.	349
196	20		An Act Creating a Montana Code of Criminal Procedure, to Codify and Generally Revise the Statutes Which Govern Court Procedures in Criminal Matters.	353
197		24	An Act for the Codification and General Revision of the Laws Relating to the State Board of Health; Amending Sections 27-112 and 27-202, R.C.M. 1947, and Repealing Sections 69-101 Through 69-103, 69-105, 69-105.1, 69-105.2, 69-105.3, 69-105.4, 69-107, 69-109 Through 69-127, 69-201 Through 69-208, 69-301, 69-303 Through 69-319, 69-401 Through 69-404, 69-501 Through 69-536, 69-536.1, 69-536.2, 69-537 Through 69-539, 69-601 Through 69-609, 69-701 Through 69-712, 69-801 Through 69-817, 69-901, 69-902, 69-1001 Through 69-1025, 69-1122 Through 69-1138, 69-1201 Through 69-1220, 69-1301 Through 69-1320, 69-1326 Through 69-1346, 69-2001 Through 69-2004, 69-2201, 69-2202, 69-2301 Through 69-2310, 69-2407 Through 69-2421, 69-2501 Through 69-2504, 69-2601 Through 69-2603, 69-2901 Through 69-2918, 69-3001 Through 69-3004, 69-3007 Through 69-3016, 69-3016.1, 69-3017, 69-3018, 69-3101 Through 69-3112, 69-3201 Through 69-3210, 69-3801 Through 69-3813, R.C.M. 1947.	466
198		386	An Act for the Codification and General Revision of the Laws of Montana Relating to Nonprofit Corporations, and Repealing Sections 15-1301, 15-1302, 15-1303, 15-1401, 15-1402, 15-1403, 15-1404, 15-1405, 15-1406, 15-1407, 15-1408, 15-1409, 16-1301, 16-1302, 16-1303, R.C.M. 1947; and Providing an Effective Date.	533
199	7		An Act to Extend the Time Period for Resident Electricians to Obtain a License From the State Electrical Board Without an Examination; Amending Section 66-2816, R.C.M. 1947, and Providing an Effective Date.	585
200	15		An Act to Amend Section 1, Chapter 174, Laws of Montana, 1957, as Amended by Section 1, Chapter 83, Laws of Montana, 1965, Compiled as Section 11-1024, Revised Codes of Montana, 1947, Relating to Group Hospitalization, Medical, Health, Accident and/or Group Life Insurance Contracts or Plans for the Benefit of the Officers and Employees and Their Dependents of Counties, Cities and Towns, to Include the Officers and Employees and Their Dependents of All Departments, Bureaus, Boards, Commissions and Agencies of the State of Montana; Repealing All Acts or Parts of Acts in Conflict Herewith.	585
201	107		An Act to Amend Section 32-2407 of the Revised Codes of the State of Montana, 1947, Relating to Designation of Highways.	587
202	119		An Act Relating to Metropolitan Sanitary and/or Storm Sewer Districts Requiring County Commissioners, by Resolution, to Levy Not to Exceed Two Mills on Taxable Valuation of Lots and Parcels in the District for the Reserve Fund; to Establish and Fix Rental Charges Not in Excess of Five Dollars Per Year Per Unit User for Ooperation and Maintenance of the System and Charges Not in Excess of Three Dollars Per Year Per Unit User for Operation and Maintenance of a Sewage Treatment Plant; Providing for a Hearing Before Levy, Publication and Posting of Notice; Providing for Filing of Budget and Compliance With County Budget Laws and Requiring Records and Budget to be Filed; Amending Section 16-4416, R.C.M. 1947, Enacted as Section 3, Chapter 165, Laws of 1965.	588
203	142		An Act to Amend Section 16-2818, R.C.M. 1947, to Provide for Payment of Costs of Medication, Medical Services and Hospitalization Incurred by Prisoners.	590
204	188		An Act Amending Sections 46-2805, 46-2706 and 46-2810, R.C.M. 1947, Providing That the County Commissioners Must Remove Land From a Cattle Protective District Upon Receipt of a Proper Petition Requesting Such Removal Except Where There Is An Indetbtedness Outstanding Against Said District.	590
205	216		An Act to Amend Section 84-4913, by Requiring Information Agents to Report to the State Board of Equalization All Sums Upon Which No Withholding Tax Has Been De-	

HeinOnline -- 1967 vol. I xxiv 1967

Chap.	Senate Bill	House Bill	Title	Page
			ducted Distributed to Individuals as Dividends, Interest and Certain Retirement Plan Payments, in Excess of Ten Dollars ($10) and Rents, Royalties, Salaries, Wages, Prizes, Awards, Annuities, Pensions and Other Distributions in Excess of Six Hundred Dollars ($600); and to Require the Return Form to be as Nearly Identical to the Comparable Federal Return Form as Possible.	592
206	242		An Act to Amend Sections 66-1403 and 66-1410, R.C.M. 1947, to Increase the Osteopathic License Fees and to Increase the Compensation Paid to Members of the State Board of Osteopathic Examiners, and Providing an Effective Date Therefor.	593
207	249		An Act to Amend the Workmen's Compensation Act by Increasing Benefits in All Categories.	594
208		256	An Act to Amend Section 11-1911, Revised Codes of Montana, 1947, Providing for the Receipt and Return of Monthly Contributions by Paid Members of Fire Department Relief Associations to the Disability and Pension Funds of Such Associations; Also Amending Section 11-1912, Revised Codes of Montana, as Amended, Providing for Tax Levies for Such Funds of Such Associations; Also Amending Section 11-1915, Revised Codes of Montana, 1947, Providing for Payments of Benefits and Allowances From Such Funds; Also Amending Section 11-1919, Revised Codes of Montana, 1947, as Amended, to Provide for Payments to Fire Department Relief Associations by the State Auditor Out of Insurance Premium Taxes Collected by Him; Also Amending Section 11-1925, Revised Codes of Montana, 1947, as Amended, making Provisions for Pensions to Retired Firemen by Such Fire Department Relief Associations; Also Amending Section 11-1926, Revised Codes of Montana, 1947, as Amended, Making Provisions for Disability Pensions to Disabled Firemen by Such Fire Department Relief Associations; Also Amending Section 11-1927, Revised Codes of Montana, 1947, as Amended, Providing for Pensions to Widows and Orphans of Deceased Firemen by Such Fire Department Relief Associations; Also Amending Section 11-1928, Revised Codes of Montana, 1947, Providing for the Uses of Disability and Pension Funds of Fire Department Relief Associations for the Payment of Allowances, Benefits, Pensions, Insurance Premiums; Providing for the Method of Such Payments; Providing for the Repeal of Acts and Parts of Acts in Conflict Herewith.	603
209		295	An Act to Amend Section 8-119, R.C.M. 1947, Relating to Penalties for Violations of Law by Regulated Motor Carriers.	611
210		354	An Act Releasing Recipients of Unsolicited Goods From Any Obligation to Return or Pay for the Goods.	612
211		361	An Act to Provide for the Use of Anticipated Average Number Belonging (ANB) in the Budgets of New Area Vocational Technical Schools; and Providing an Effective Date.	613
212		460	An Act Providing an Accelerated Tax Collection in the Event It Appears That a Delay Will Jeopardize the Collection of Tax Due the State of Montana; Amending Section 84-4946, R.C.M. 1947.	613
213		515	An Act Amending Section 15-2022, R.C.M. 1947, Relating to Civil Remedies Afforded Purchasers of Securities Sold in Violation of the Securities Act of Montana.	615
214		521	An Act Amending Section 68-1307, R.C.M. 1947, Relating to Allocation of Money to Public Employees' Retirement Fund by Providing That Employer Contributions Shall be Increased to Three and Five Tenths Percent (3.5%) of Total Compensation, to Provide for Increased Funding of the Public Employees' Retirement System.	616
215		39	An Act Amending Section 84-301, R.C.M. 1947, as Amended by Chapter 168, Laws of 1965, Relating to Classification of Property, to Remove the Limitations Upon Renting Portions of Class Eight Property; and Providing an Effective Date.	618
216		116	An Act Amending Sections 62-505, 62-507, 62-510, 62-511 and 62-514, R.C.M. 1947, Relating to Licensing of Participants in Any Race Meet by the Montana Horse Racing Commission, to Clarify the Scope of This Act as Applied to	

HeinOnline -- 1967 vol. I xxv 1967

Chap.	Senate Bill	House Bill	Title	Page
			Illegal Betting, to Clarify the Type of Public Liability Insurance a Licensee Is Required to Carry, to Establish Percentage Payments From Gross Receipts of Licensee to be Paid to the Racing Commission, to Provide for the Payment of Underpayments to the Racing Commission, and to Repeal Sections 84-6502, 84-6503 and 84-6504, R.C.M. 1947.	622
217		176	An Act Providing for the Determination by the Board of Equalization of the State of Montana of Whether a Bidder on Public Contracts is a "Resident" Within the Meaning of Sections 82-1924 and 82-1925, Revised Codes of Montana, 1947.	625
218		193	An Act to Amend Section 25-232, Revised Codes of Montana, 1947, Section 25-233, Revised Codes of Montana, 1947, and Section 82-503, Revised Codes of Montana, 1947, Increasing Certain Fees to be Collected by the Clerks of the District and Supreme Courts and Providing for the Disposition of Such Said Fees as Are Collected Under Said Sections 25-232, 25-233 and 82-503, and Repealing All Acts and Parts of Acts in Conflict Herewith.	626
219		207	An Act to Amend Section 80-1905, Revised Codes of Montana, 1947, Relating to Good Time Allowances for State Prison Inmates.	629
220		218	An Act to Amend Sections 23-2502 and 23-2506, R.C.M. 1947, Relating to Voting Machines and Authorizing Counties, Cities and Towns to Use Electronic Voting Systems Under Certain Conditions.	631
221		240	An Act Amending Section 93-1906, R.C.M. 1947, Increasing the Annual Salaries of Court Reporters From Seven Thousand Eight Hundred Dollars ($7,800) to Eight Thousand Eight Hundred Dollars ($8,800).	633
222		249	An Act Amending Section 68-701, R.C.M. 1947, to Permit Payment of Accumulated Contributions from the Public Employees' Retirement Fund to Members Terminating State Service After Ten (10) Years of Service, and to Renumber Certain Subdivisions Thereof as Additional Sections of the Revised Codes of Montana, 1947.	633
223		278	An Act Amending Section 16-912, R.C.M. 1947, to Provide for an Increase in the Amount of the Annual Salary and for Mileage Payments to County Commissioners in Counties of the First, Second, Third, and Fourth Class; and to Provide for an Increase in Mileage Payments from Eight Cents (8c) to Nine Cents (9c) Per Mile and to Provide for Increased Payments from Twenty Dollars ($20) to Twenty-five Dollars ($25) Per Day Compensation for Performing Duties for County Commissioners in Counties of Other Than First, Second, Third and Fourth Class.	638
224		312	An Act Amending Section 11-725, R.C.M. 1947, Increasing the Salaries of Mayors and Aldermen.	640
225		360	An Act to Amend Section 75-1630, R.C.M. 1947, to Provide That With the Exception of Certain Situations, Public Elementary School Children Must Obtain Written Consent of the Board of Trustees of the District in Which They Reside, the Written Consent of the Board of Trustees in the District in Which They Propose to Attend School, as Well as the Written Consent of the Various County Superintendents of Schools Concerned Before They Are Permitted to Attend a Public Elementary School in Another District Whether Within or Without the County in Which the Children Reside.	640
226		396	An Act to Amend the Uniform Disposition of Unclaimed Property Act, Adding Money Orders and Business Associations to the Coverage of the Act, Extending the Term for Abandonment and the Method of Reporting for Travelers' Checks; Amending Sections 67-2202, 67-2211, 67-2212 and 67-2213, R.C.M. 1947.	645
227		517	An Act Amending Sections 68-701, 68-801, 68-901, 68-1001, 68-1004, and 68-1101, R.C.M. 1947, Relating to the Service Retirement Allowance of Members of the Public Employees' Retirement System by Providing That Members of the System May Retire and Receive a Retirement Allowance, Equal at Age Sixty-five (65) to One-seventieth (1/70) of Final Compensation, Multiplied by Years of State Service.	650

HeinOnline -- 1967 vol. I xxvi 1967

Chap.	Senate Bill	House Bill	Title	Page
228		519	An Act to Revise the Uniform Federal Tax Lien Registration Act, Authorizing the Filing of Notices of Liens for Taxes Payable to the United States of America and of certificates Discharging Such Liens, and to Make Uniform the Law With Reference Thereto; Repealing Sections 84-3901, 84-3902, 84-3903, 84-3904, 84-3905, 84-3906, 84-3907, R.C.M. 1947.	663
229		23	An Act for the General Revision and Recodification of Fire Protection Laws; Amending Sections 69-1801, 69-1802, 69-1808, 69-2101, 69-2103, 82-1201, 82-1202, 82-1208, 82-1209, 82-1211 and 82-1218, R.C.M. 1947, and Repealing Sections 82-1203, 82-1204, 82-1210, 82-1227 and 82-1228, R.C.M. 1947.	666
230		31	An Act Amending Section 82-3001, R.C.M. 1947, to Provide Additional Representation on the Council of Natural Resources and Development, to Include the Commissioner of Agriculture, the Executive Officer of the State Board of Health, the Director of Planning and Economic Development, and the Executive Secretary of the State Soil Conservation Committee, and to Correct the Designations of Representatives from the State Fish and Game Department, the State Oil and Gas Conservation Commission, and the Montana Water Resources Board.	675
231		56	An Act Amending Section 25-605, R.C.M. 1947, Pertaining to the Salaries of County Treasurers, Clerk and Recorder, Clerk of the Court, County Attorneys, Sheriffs, County Assessors, County Superintendents of Schools, and of County Surveyors in Counties Where County Surveyors Now Receive Salaries; Increasing Said Salaries in All Categories.	676
232		75	An Act to Make Special Mobile Equipment Subject to Assessment at Time of Application for Special Mobile Equipment Plate; Amending Section 32-3707, R.C.M. 1947, Which Provides for Special Mobile Equipment Registration, and Section 84-406, R.C.M. 1947, which Specifies Assessment Dates; Providing an Effective Date.	678
233		155	An Act Amending Sections 75-5203, 75-5206 and 75-5208, R.C.M. 1947, Relating to the Montana Law Enforcement Academy, to Provide Academy Session Periods to Be Determined Annually by the Advisory Board; Authorizing the Advisory Board to Accept Grants; and Deleting a Portion of Section 75-5208, R.C.M. 1947.	680
234		393	An Act to Amend the Montana Uniform Gifts to Minors Act, Authorizing Gifts of Life Insurance Policies and Annuity Contracts; Providing for the Designation of Successor Custodians; Enlarging the List of Financial Institutions That May Act as Eligible Depositories; Amending Sections 67-1801, 67-1802, 67-1803, 67-1804, 67-1806, 67-1807, 67-1810, 67-1811, R.C.M. 1947.	682
235		316	An Act Providing for Reimbursement to Counties for Loss of Revenue Because of Tax Exempt Status of State Owned Land in Excess of Six Percent (6%) of the Total Land Area; Providing for Procedures to Effectuate This Purpose; Prescribing the Duties of the Commissioner of State Lands and Investments, County Assessors and the State Controller; Limiting the Maximum Payments; and Providing an Effective Date.	692
236		335	An Act to Amend Chapter 24 of Title 66, R.C.M. 1947, by Adding a New Section Thereto Establishing a Fixture Fee to Be Used for the Inspection and Enforcement of the State Plumbing Code and Authorizing a State Plumbing Inspector, and Providing for a Penalty for Failure to Pay the Fixture Fee Established; and Repealing Acts or Parts of Acts in Conflict Herewith; and Providing an Effective Date.	694
237		482	An Act Amending Sections 3-103, 41-1603, 46-2305, 71-203, 77-117, 77-120, 77-1304, 81-209, 81-1403, 82-1011, 82-1519, 82-2702, 84-702, 89-103.3, 92-104 and 94-9825, R.C.M. 1947, to Fix the Salaries of Appointed Officials.	695
238	5		An Act Removing the Seven Thousand Dollars ($7,000) Limit on the Salary Used to Compute Benefits Under the Teachers' Retirement System and to Provide an Additional Annuity Payment to Beneficiaries; Amending Section 75-2701, R.C.M. 1947.	706

HeinOnline -- 1967 vol. I xxvii 1967

Chap.	Senate Bill	House Bill	Title	Page
239	24		An Act to Protect the Public Health and to Conserve and Protect the Water Resources of the State, to Provide for the Classification of All Public and Privately Owned Water Supply Systems and All Public and Privately Owned Waste Water Treatment Plants, to Require the Examination and Certification of the Competency of Operators, to Supervise the Operation of Water Supply Systems and Waste Water Plants, to Prescribe the Powers and Duties of the State Board of Health, to Provide for the Promulgation of Rules and Regulations, to Provide a Board of Certification, and to Prescribe Penalties for the Violation of This Act.	710
240	49		An Act to Amend Section 75-2704, Revised Codes of Montana, 1947, as Last Amended by Chapter 216, Laws of Montana, 1953, Relating to the Number of Years Membership Service Required to Be Eligible for Vested Rights.	717
241	51		An Act to Amend Section 75-2707, Revised Codes of Montana, 1947, as Amended by Chapter 216, Laws of 1963 and Last Amended by Chapter 33 and Chapter 259, Laws of 1965, Relating to Benefits and the Number of Years of Service Required for Retirement and Disability Benefits, Relating to Payments to Beneficiaries of Deceased Members and Change the Age for Minimum Retirement Benefits.	719
242	52		An Act to Amend Section 75-2705, Revised Codes of Montana, 1947, Relating to the Number of Years of Out of State Service a Member Is Allowed to Purchase as Montana Service.	725
243	58		An Act to Amend Section 75-3414, R.C.M., 1947, Relating to Budgets and Levies for School Transportation; Providing That a Reserve Fund May Be Included in the School Transportation Budget; and Providing an Effective Date.	729
244	68		An Act Amending Sections 84-1302 and 84-1304, R.C.M. 1947, Relating to Coal Mines License Taxes, to Limit the Application of Said Tax to Strip Coal Mines.	732
245	69		An Act to Provide for the Reclamation of Lands on Which Strip Mining of Coal Has Been Conducted; to Authorize the Montana Bureau of Mines and Geology to Enter Into Contracts for the Reclamation of Lands on Which Strip Coal Mining Has Been Conducted; Authorizing a Credit on Coal Mines License Tax for One-half (½) of the Amounts Spent on Land Reclamation, and Amending Section 84-1303, R.C.M. 1947.	734
246	85		An Act Expanding Duties and Services of the Division of Mental Hygiene of the State Board of Public Institutions by Establishing and Conducting Mental Health Clinics and Community Comprehensive Mental Health Centers; Creating Regional Mental Health Boards; Providing for the Organization Thereof; Defining the Duties of Regional Mental Health Boards; Authorizing the Participation of the Division of Mental Hygiene of the State Board of Public Institutions in Contractual or Cooperative Arrangements With Regional Mental Health Boards and Others; Providing the Division of Mental Hygiene and the Regional Mental Health Boards the Authority to Receive Gifts, Grants, Donations, and Any Other Form of Support and Enabling Counties Participating in Regional Mental Health Programs to Use Tax Monies to Finance the Programs of Prevention, Diagnosis and Treatment of Mental Illness; Giving the Division of Mental Hygiene of the State Board of Public Institutions General Supervisory Power and Control Over All Public Mental Health Programs in the State of Montana; Amending Section 80-2403 of the Revised Codes of Montana, 1947, Enacted as Section 69, Chapter 199, Laws of 1965; and Repealing All Other Acts and Parts of Acts in Conflict Herewith.	737
247	184		An Act to Validate and Confirm Sales or Dispositions Heretofore Made or Attempted to Be Made by any County of Any Property in Which Such County Had or Claimed Any Right, Title or Interest, and All Instruments of Transfer or Conveyance Heretofore Made or Executed by Any County, and to Declare That All Such Sales, Dispositions and Instruments Have Vested in the Grantee or Purchaser, As of the Date Thereof, All Right, Title and Interest of the County in and to the Property Described or Covered.	741
248	63		An Act to Submit to the Electors of Montana an Amendment to Section 5, Article V of the Montana Constitution	

HeinOnline -- 1967 vol. I xxviii 1967

Chap.	Senate Bill	House Bill	Title	Page
			Increasing the Limitation on the Length of Sessions and Providing That Per Diem and Expense Payments to Members of the Legislative Assembly for Days in Session Shall Not Be Made for More Than Eighty Days.	742
249	2		"The Legislative Audit Act" Creating a Legislative Audit Committee and the Office of Legislative Auditor and Providing for the Audit of State Agencies by the Legislative Auditor; Amending Sections 82-1002, 82-1005, 82-1007, 82-1009, 82-110, 71-206, 4-347, 4-230, and 5-910, R.C.M. 1947; Repealing Sections 82-1014, 82-1015, 82-1016, 84-4403, 84-4404, and 84-4405, R.C.M. 1947, and Providing an Effective Date.	743
250		100	An Act Providing for the Adoption of Orderly Procedures for Establishing Desirable Employment Practices for Registered Professional and Licensed Practical Nurses Employed in Health Care Facilities; Establishing Procedures for Establishing Standards and Procedures for Employment Relationships.	753
251	42		An Act to Amend Section 32-2601, R.C.M. 1947, Relating to the Distribution and Use of Proceeds of Gasoline License Tax, by Providing That the Percentage of All Receipts Deposited and Credited to the State Park Account in the Earmarked Revenue Fund for Creation, Improvement and Maintenance of State Parks Be Reduced from One Percent (1%) to Six-tenths of One Percent (.6%), and by Providing for Refund of Gasoline License Tax from Said Account to Purchasers of Gasolines for Use in Motor Boats; and to Amend Section 84-1818, R.C.M. 1947, to Include Gasoline Used in Motor Boats Among the Uses Entitling Gasoline Purchasers to Refund of Gasoline License Tax.	756
252	88		An Act to Provide that the State Supervisor of Health, Physical Education and Recreation Instruction Shall Have a Master's Degree in Physical Education; Providing an Annual Salary Comparable to Other Supervisors; Amending Section 75-2009, R.C.M. 1947 and Repealing Section 75-2010, R.C.M. 1947.	762
253	113		An Act to Amend Section 84-4931, R.C.M. 1947, Relating to the Confidential Nature of Information Contained in State Income Tax Reports and Exceptions Thereto; Requiring Board of Equalization to Furnish to Highway Patrol Board Information Necessary to Identify Those Persons Qualifying for Additional Exemption for Blindness.	762
254	174		An Act Relating to Area Vocational-Technical Education; Amending the Definition of Vocational Education; Providing for Apportionment of Funds; Providing for Designation of Area Vocational-Technical Schools, Admission of Students, Fees, Tuition and State Aid; Providing for Average Number Belonging; Amending Sections 75-4246, 75-4301, 75-4302, 75-4303, 75-4304, 75-4305, 75-4306 and 75-4307; and Providing an Effective Date.	764
255	187		An Act Requiring the Board of Institutions to Establish Mental Health Centers in Miles City and Glasgow for Care and Treatment of Mentally Ill Persons, Providing Staff and Service Requirements to Be Under Supervision and Regulations of the Board; Requiring the Board to Establish, Construct, Equip, Maintain and Staff a Mental Retardation Center at Glendive, Providing for Residential and Outpatient Care of Mentally Retarded Persons as an Extension of the State Training School and Hospital Under Supervision and Regulations of the Board, Not to Exceed Two Hundred Bed Units; and Providing for Temporary Transfers to State Training School and Hospital at Boulder.	768
256	189		An Act to Provide a Penalty for Operating Without a License as an Insurance Agent, Solicitor, or Adjuster.	769
257	199		An Act to Amend Section 16-3705, R.C.M. 1947, to Provide Additional Qualifications for Deputy Sheriffs in First, Second and Third Class Counties; Providing Tenure for Such Deputies; Providing Grounds for Discharge of Such Deputies; Providing for Appeal Procedure; Containing a Repealing Clause and an Effective Date.	770
258	231		An Act Relating to Bonds of Irrigation District and Proceeds of Sale Thereof, Providing That Any Other Surplus Funds of the District May Be Invested by the County	

HeinOnline -- 1967 vol. I xxix 1967

Chap.	Senate Bill	House Bill	Title	Page
			Treasurer at the Discretion and Direction of the Board of Commissioners; Amending Section 89-1708, R.C.M. 1947.	772
259	232		An Act to Amend Section 40-804, R.C.M. 1947, to Increase the Maximum Amount of Insurance That a Farm Mutual Insurer Shall Retain on a Single Risk from Ten Percent (10%) of the Admitted Assets of the Insurer or Five Thousand Dollars ($5,000), whichever Is Greater, to Ten Percent (10%) of the Admitted Assets of the Insurer or Fifteen Thousand Dollars ($15,000), whichever Is Greater.	773
260	39		An Act Providing for the Creation, Maintenance and Operation of Public Libraries in Counties and Cities and Repealing Sections 44-201, 44-202, 44-203, 44-204, 44-205, 44-206, 44-207, 44-208, 44-209, 44-210, 44-216, 44-217, 44-301, 44-302, 44-303 and 11-704, R.C.M. 1947; Amending Section 44-214, R.C.M. 1947.	774
261	40		An Act to Create a State Publications Library Distribution Center as a Division of the State Library and Amending Section 82-1916, R.C.M. 1947, Relating to Printing and Distribution of State Reports and Providing for Reimbursement for Additional Publications.	779
262	54		An Act to Amend Section 53-626, Revised Codes of Montana, 1947, Relating to Exemptions of Fee of Motor Vehicles by Providing Exemptions to Licensed Dealers When Vehicle Is Unladen or Laden With Dealers Property Only.	782
263	55		An Act Amending Sections 16-4501, 16-4502, 16-4503, 16-4505, 16-4506, 16-4507, 16-4508, 16-4509, 16-4510, 16-4511, 16-4513, 16-4514, 16-4516, 16-4519, 16-4520, 16-4525, 16-4526, 16-4527, 16-4529, 16-4530, 16-4531, 16-4532, 16-4533, and 16-4534, of the Revised Codes of Montana, 1947, Pertaining to County Water Districts to Allow the Formation of County Water and/or Sewer Districts and Increasing Directors' Salaries to Twenty Dollars ($20) a Meeting; and Providing a Saving Clause and an Effective Date.	783
264	59		An Act Providing for the Payment of Mileage to School Trustees; Amending Section 75-1622, R.C.M. 1947.	804
265	61		An Act Amending Section 4-108, of the Revised Codes of Montana, 1947, Relating to Maximum Salaries of the State Liquor Administrator and Other Employees of the Montana Liquor Control Board, and Providing an Effective Date.	805
266	93		An Act Amending Section 11-1832, R.C.M. 1947, Relating to Minimum Wages of Policemen of Cities of the First and Second Class, to Require That Such Wages Be Four Hundred Dollars ($400).	806
267	123		An Act to Amend Section 11-1932, Revised Codes of Montana, 1947, to Increase the Minimum Compensation of Firemen in Cities of the First and Second Class.	807
268	141		An Act to Provide for Post-Enemy-Attack Continuity in Government.	808
269	150		An Act to Provide for Control and Regulation of the Affairs of Domestic and Foreign Insurance Holding Companies; Prescribe Rules and Regulations Governing Acquisition and Disposal of Stock of Insurance Holding Companies; Prescribe Rules and Regulations Regarding Acquisition and Disposal of Stock of Insurance Companies by Insurance Holding Companies; Exempting Certain Acquisitions and Disposals of Stock from the Provisions of the Act; Subjecting Domestic Insurers Coming Within the Purview of the Act to Examination by the Insurance Department; Providing for Application to Be Made to the Insurance Commissioner to Approve Certain Transactions; Providing for Judicial Review of Orders; Defining Terms; and Providing Penalties.	810
270	151		An Act to Amend Section 92-418, Revised Codes of Montana, 1947, as Amended by Chapter 162, Section 6, Laws of 1961, Relating to the Definition of "Injury" or "Injured" Under the Workmen's Compensation Act of Montana, Repealing All Acts and Parts of Acts in Conflict Herewith; and Providing an Effective Date.	813
271	154		An Act to Amend Sections 75-1810 and 75-1813, R.C.M. 1947, to Provide That Bonded Indebtedness Is Assumed by	

HeinOnline -- 1967 vol. I xxx 1967

Chap.	Senate Bill	House Bill	Title	Page
			the New School District When School District Boundaries Are Changed Through Consolidation or Annexation.	814
272	162		An Act to Amend Sections 9-402, 9-403, 9-404, 9-405 and 9-406, of Chapter 264, Laws of Montana, 1963, Compiled as Sections 87A-9-402, 87A-9-403, 87A-9-404, 87A-9-405 and 87A-9-406, Revised Codes of Montana, 1947, Relating to the Formal Requisites of Financing Statements, the Filing of Financing Statements, Termination Statements, Assignments of Security Interests and the Release of Security Interests, by Providing for Including the Name of the Record Owner or Record Lessee When the Financing Statement Covers Crops Grown or to Be Grown or Goods Which Are or Are to Become Fixtures, by Providing That Such Financing Statements, Termination Statements, Assignments and Releases Shall Be Indexed in Accordance With the Requirements Applicable to Real Estate Mortgages; Repealing All Acts or Parts of Acts in Conflict Herewith.	818
273	173		An Act Amending Section 75-3904, R.C.M. 1947, Relating to Early Redemption of School Bonds, to Allow Redemption of Said Bonds Within Five Years from Date of Issue of Said Bonds; Providing an Effective Date.	825
274	195		An Act Amending Section 16-3302, R.C.M. 1947, as Amended by Chapter 197, Laws of 1965, to Provide for the Office of County Surveyor and Prescribe His Duties and Salary; Amending Section 32-2803, R.C.M. 1947, Enacted by Section 5-103 of Chapter 197, Laws of 1965, to Provide for an Office of County Road Superintendent in Counties Withuot a County Surveyor; and Providing an Effective Date.	826
275	202		An Act to Provide That All Vacancies on the Board of Trustees in First and Second Class School Districts Be Filled by Appointment by the Remaining Members of the Board; Amending Section 75-1614, R.C.M. 1947.	828
276	233		An Act Amending the Statute on the Distribution of Obscene Literature or Material to Minors and Others, Regarding the Trial of Actions Brought Under This Section and Providing Penalties for Its Violation.	829
277	234		An Act Relating to Business Trusts; Recognizing Business Trusts in Montana.	832
278	239		An Act to Amend Section 25-309 as Last Amended by Chapter 3, Laws of Montana, R.C.M. 1965, Relating to the Fees of Constables and Providing That Constable Salaries Be Fixed by Resolution of the County Commissioners.	835
279	243		An Act Amending Sections 87A-9-302.1 and 87A-9-302.2, R.C.M. 1947, Relating to Filing of Instruments Under the Provisions of the Uniform Commercial Code by Public Utilities to Include Other Similar Corporations; Providing for a Repealing Clause and for an Effective Date.	838
280		87	An Act to Establish a County Printing Commission Which Will Set Maximum Prices for County Printing and Legal Advertising; and to Provide for the Appointment, Compensation, Powers and Duties of the Commission.	839
281		101	An Act to Provide That Cities or Towns May Extend Their Boundaries to Include Tracts of Land Which Have Been Platted for Parks by Adoption of a Resolution to That Effect by the City or Town, Amending Section 11-403, R.C.M. 1947.	842
282		102	An Act Amending Section 80-105, R.C.M. 1947, to Permit the Admittance of Children Under the Age of Five Years to the State School for the Deaf and Blind; and Amending Section 80-107, R.C.M. 1947, to Permit a Child to Attend the State School for the Deaf and Blind Until Reaching the Age of Twenty-One Years If the Board of Education and Superintendent Determine That Attendance at the School Benefits the Child.	845
283		130	An Act to Provide for the Support of the Government of Montana for the Years 1967 and 1968, Providing a Severability Clause and an Effective Date.	846
284		144	An Act Amending Sections 89-3301, 89-3302, 89-3303, 89-3304, 89-3306, 89-3307, 89-3308, 89-3309, 89-3310, 89-3311, R.C.M. 1947, Relating to City and County Flood Control	

HeinOnline -- 1967 vol. I xxxi 1967

Chap.	Senate Bill	House Bill	Title	Page
			Projects, to Authorize Multiple Use Water Projects by Cities and Counties; to Change the Method of Levying the Special Assessment to Pay for Such Projects; Authorizing Cities and Counties to Charge Fees for Services and Facilities Provided by Such Projects; and Providing an Effective Date.	848
285		160	An Act Providing for the Control of Junkyards; Setting Forth Definition; Restricting Location Along Certain Highways; Requiring an Annual License and Fee; Requiring Certain Junkyards to Be Obscured by Means of Natural Objects or Fences; Providing Authority to Purchase or Condemn in Certain Situations; Providing Penalties for Violation; and Repealing Sections 32-4501 Through 32-4512, Revised Codes of Montana, 1947.	853
286		167	An Act Providing for the Acquisition of Land for the Restoration, Preservation and Enhancement of Scenic Beauty Within and Adjacent to Federal-aid Highways.	857
287		187	An Act to Provide for the Zoning by the Legislature of Certain Lands Adjacent to the Interstate and Primary System Highways as Commercial and for Zoning and Rezoning in Certain Cases by the Boards of County Commissioners, or Through Their Authority in Accordance With Presently Existing or Hereafter Enacted Statutes; to Provide That the Zoning Hereby Effected Shall Not, in Itself, Affect Any Taxes Levied Against Real Property or Any Assessment or Assessment Classification; to Provide for the Control of Outdoor Advertising Adajacent to the Interstate and Primary Systems; to Provide for the Administration of Such Outdoor Advertising Controls; All in Conformity With the Federal Highway Beautification Act of 1965; and Containing a Severability Clause.	858
288		195	An Act to Provide for the Removal and Disposal of Abandoned Motor Vehicles and for Related Purposes.	873
289		197	An Act Relating to the Judicial Department of the State of Montana; Providing for the Retirement of District Judges and Justices of the Supreme Court, Subject to Thereafter Being Called Into Service for the Performance of Certain Judicial Duties Under the Direction of the Supreme Court and Providing an Allowance of Actual Expenses for Such Service; Defining the Terms Used in This Act; Establishing a Montana Judges' Retirement System; Creating a Montana Judges' Retirement Board; Providing for Payment of the Expense of Administering This Act, and for Payments Into the Montana Judges' Retirement Fund; Providing for the Establishment and Enforcement of Rules and Regulations; Requiring Membership in Public Employees' Retirement System and for Payments Thereto by Each Judge Not Heretofore a Member Thereof; Providing a Service Allowance Based on Length of Service; Requiring Payments Into the Montana Judges' Retirement Fund by Deductions from Members' Salaries; Providing for Contributions by the State of Montana. and for Payment Into the Montana Judges' Retirement Fund of One-quarter of Fees Collected by Clerks of District Court and by the Clerk of the Supreme Court; Specifying Length of Service and Age Requirements Necessary for Retirement; Providing the Method of Computing Retirement Allowance; Providing for a Disability Retirement Allowance and an Involuntary Retirement Allowance; Specifying Penalty Retirement Age and Providing for a Retirement Allowance Forfeiture; Providing for Payments Upon Death; Providing for Monthly Payments of Retirement Allowances, for Exemption from Taxes and Execution, for Nomination of Beneficiary, and for Options Available to Judges Entering Military Service; Providing Certain Optional Methods of Payment of Retirement Allowance; Providing for Transfer of Accounts Dormant for Ten (10) Years; and Providing a Savings Clause Declaring the Provisions of This Act to Be Severable.	876
309		492	An Act Amending Section 32-1629, R.C.M. 1947, as Amended, Making the Transportation of Garbage, Refuse and Debris Unlawful Unless the Vehicle in Which Same is Transported Is Protected to Prevent the Garbage, Debris or Refuse from Being Blown or Removed from the Vehicle While in Transit and Providing a Penalty.	1081
310		505	An Act Providing for the Burial of Honorably Discharged Military Service Men and Women and Military Service Men and Women Who Died While in Service During a Declared	

HeinOnline -- 1967 vol. I xxxii 1967

Chap.	Senate Bill	House Bill	Title	Page
			or Undeclared War, or Female Residents of the Montana Veterans' Home; Providing Claimants Shall Be a Relative or Guardian Unless Otherwise Directed; Amending Sections 71-120, 71-121, 71-122, 71-123 and 71-125, R.C.M. 1947.	1082
311		514	An Act to Remove the Limitation of Two (2) Additional Trustees Which May Be Added in Third Class Districts When Additional Board Members Are to Be Elected; Amending Section 75-4601, R.C.M. 1947.	1085
312		535	An Act Establishing the Office of State Highway Administrator, Providing for Duties and Removal; Amending Section 32-2501, Revised Codes of Montana, 1947, Enacted as Section 4-201, Chapter 197, Laws of 1965.	1089
313		8	An Act Providing for the Conservation of the Air Resources of the State; Providing for Prevention, Abatement, and Control of Air Pollution; Providing Penalties for Violation; and Repealing Sections 69-3901, 69-3902, and 69-3903, R.C.M. 1947.	1090
314		139	An Act to Create a Division of Wheat and Marketing Research in the Montana Department of Agriculture to Conduct Research Into All Phases of Wheat Culture, Production, Marketing and Use; Levying an Assessment of Two and One-half (2½) Mills Per Bushel of Wheat on the Grower to Cover the Expense of Research and the Administration of This Act; Providing for an Effective Date, August 20, 1967.	1105
315		27	An Act to Submit to the Qualified Electors of Montana an Amendment to the Constitution of Montana Amending Section 9, Article XIX to Allow Six Proposed Amendments to the Constitution to Be Submitted at One Election.	1114
316		52	An Act to Provide that State Banks Shall Not Be Required to Pay Montana Corporation License Tax Until and Unless Said Tax Is Required to Be Paid by National Banks.	1115
317		83	An Act Relating to the School Foundation Program; Providing for Changes in the Financial Schedules for the Maximum General Fund Budgets for School Districts and County High Schools; Increasing the Foundation Program from Seventy-five Percent (75%) to Eighty percent (80%) of the Maximum Budgets; Amending Sections 75-1713.1, 75-3612, 75-3616, and 75-4518.1, R.C.M. 1947; and Providing an Effective Date.	1115
318		103	An Act Relating to the Long-Range Building Program; Pledging and Appropriating Excise Taxes on Cigarettes and Other Tobacco Products to the Sinking Fund Account for the Payment of Long-Range Building Program Bonds Financing the Cost of Constructing and Remodeling State Buildings; Increasing the Maximum Amount of Bonds Which May Be Issued for Such Purpose and Increasing the Pledge of Income Tax and Corporation License Tax; Authorizing the State Treasurer With the Approval of the State Board of Examiners to Set Aside from the Proceeds of the Bonds Issued Hereunder the Funds Necessary for Payment or Redemption of All of the Outstanding War Veterans' Compensation Bonds and World War I Veterans' Compensation Bonds; Amending Sections 79-2202, 79-2203, 79,2205, 84-5606, and 84-5621, of the Revised Codes of Montana, 1947; and Providing an Effective Date.	1121
319		226	An Act to Amend Sections 26-202.1 and 26-202.5, R.C.M. 1947, to Provide for Increased Hunting and Fishing License Fees, to Provide for a Special Grizzly Bear License, to Provide for a Nonresident Deer License, to Provide for a Nonresident Antelope License, to Require Nonresidents to Be Twelve (12) Years of Age or Older to Purchase Hunting Licenses, to Prohibit the Purchase of More Than One (1) License of Any Class Except Temporary Nonresident Licenses, to Correct a Conflict of Statutes Dealing With Landowner Beaver Permits, to Provide a Reduced Hunting License Fee for Resident Minors Under Fifteen (15) Years of Age, to Repeal Requirement for Prerequisite License Before Purchasing Other Licenses, to Provide for a Combination Sportsman's License to Include Class A, A-1, A-3 and A-5 Licenses, to Provide for Preference in the Issuance of Antelope Licenses to Applicants Who Did Not Receive Such License for the Previous Year, and to Provide an Effective Date.	1130

HeinOnline -- 1967 vol. I xxxiii 1967

Chap.	Senate Bill	House Bill	Title	Page
320		290	An Act Relating to the Powers and Duties of the Board of Institutions and to Certain Institutions Under Its Management and Control; Providing the Board's Power to Fix Salaries of Superintendents of Institutions With the Approval of the Board of Examiners If the Salaries of Superintendents or Wardens Are Not Specified by the Legislative Assembly in the Appropriation to the Department of Institutions; Changing the Name of Certain Institutions; Generally Revising and Amending the Laws Relating to Juvenile Correctional Institutions; Providing for the Control and Management of Juvenile Correctional Facilities Including Juvenile Correctional Facilities Hereafter Authorized by the Legislature; Providing for Transferring of Prisoners Sent to the State Prison Who are Under the Age of Twenty-one (21) to Juvenile Correctional Facilities; Amending Sections 80-1403, 80-1404, 80-1405, 80-1601, 80-1701, 80-1702, 80-1703, 80-2202, 80-2203, 80-2204, 80-2205, 80-2206, 80-2209, 80-2210, 80-2211, 80-2212, 80-2301, 80-2302, 80-2303, 80-2304, 80-2305, 80-2306, 80-2307, 80-2308, 80-2309, 80-2401, 80-2402, 80-2404, Repealing 80-2201, 80-2208, R.C.M. 1947.	1136
321		456	An Act Authorizing School Districts to Enter Into Lease Agreements for the Rental of Needed School Buildings.	1149
322	213		An Act to Amend Section 75-1630, R.C.M. 1947 to Provide That a Board of School Trustees Shall Waive Any or All Tuition for a Student Attending School Outside the District of His Residence If His Parent Is a Taxpayer on the Last Completed Assessment Roll of the Receiving District in an Amount of Two Hundred Dollars ($200) or More in School Taxes; and Providing an Effective Date.	1153
323	219		An Act Authorizing and Empowering the Commissioner of Labor of the State of Montana to Recommend Changes in the Laws of Montana Relating to Safety Codes, Safety Positions, and General Safety Laws; Creating a Commission to Prepare Suggested Changes in Safety Laws and Propose New Laws and Propose New Recommendation as to the Position of Safety; Prescribing the Membership and the Powers and Duties of Said Commission; Providing for the Employment of a Secretary-Stenographer of the Commission and Employment of Research Facilities, If Deemed Necessary; Providing for the Payment of Actual Travel and Other Expenses Incurred by Members of Said Commission in the Discharge of Their Duties; Providing That Such Recommended Changes or New Provisions in the Laws of Montana Governing Safety Codes Shall Be Submitted to the Forty-first Legislative Assembly of the State of Montana for Its Consideration.	1158
324		559	An Act to Appropriate Money From the General Fund to the Montana Historical Society to Lease, Operate and Maintain a Building to House the Antique Ford Automobile Collection for the Biennium Ending June 30, 1969.	1160
325	4		An Act to Provide for Medical Assistance in Conformity With Title XIX of the Federal Social Security Act of 1935 as Amended; Providing for the Administration of the Act by the State Department of Public Welfare and the County Departments of Public Welfare; Providing Eligibility Requirements for Assistance Under the Act; and Providing for Counties' Share of Participation Under the Act; Amending Section 71-211, R.C.M. 1947, to Conform Herewith; and Repealing Sections 71-1501 Through 71-1510, R.C.M. 1947.	1161

APPROPRIATIONS

House Bill	Title	Page
1	An Act Appropriating Money for the Operation of the Fortieth Legislative Assembly.	1171
5	An Act to Appropriate Money for The Purchase of Replacement Volumes 1 (Part 2) and 8, and the 1967 Pocket Supplements of the Revised Codes of Montana of 1947, and Providing an Effective Date.	1171
88	An Act to Transfer Funds from the General Fund to the Earmarked Revenue Fund, Motor Vehicle Account, and Appropriating Funds for Reflectorized License Plates.	1171

HeinOnline -- 1967 vol. I xxxiv 1967

House Bill	Title	Page
126	An Act Appropriating Money to the Commissioner of State Lands and Investments for the Biennium Ending June 30, 1967, to Acquire Access to Certain State Lands.	1172
242	An Act Appropriating Moneys to the Montana State Board of Education, Ex Officio Regents of the Montana University System for a Capital Project for the Biennium Ending June 30, 1967 and Providing an Effective Date.	1172
264	An Act to Appropriate Money to the Montana Horse Racing Commission for the Biennium Ending June 30, 1967.	1173
302	An Act Appropriating Nine Thousand Two Hundred Fifty Dollars ($9,250) for State of Montana Dues to the Council of State Governments for the 1967-1969 Biennium.	1173
547	An Act Appropriating Moneys for Certain State Agencies and Institutions of Government for the Biennium Ending June 30, 1967.	1174
556	An Act Appropriating Money to the State Auditor from the Police Account of the Earmarked Revenue Fund for the Biennium Ending June 30, 1967; for the Purposes Enumerated in Chapter 261, Laws of 1965; and Providing an Effective Date.	1176
557	An Act Appropriating Money to the State Auditor from the Police Account of the Earmarked Revenue Fund for the Biennium Ending June 30, 1969, for the Purposes Enumerated in Chapter 261, Laws of 1965; and Providing the Method of Disbursement.	1176

HOUSE JOINT RESOLUTIONS

No.	Title	Page
House Joint Resolution No. 1	A Joint Resolution of the Senate and House of Representatives of the State of Montana to the Congress of the United States and the Montana Congressional Delegation Opposing Passage of the Dodd Bill or Any Other Legislation Which Would Impair a Private Citizen's Right to Bear Arms.	1177
House Joint Resolution No. 3	A Joint Resolution of the Senate and House of Representatives of the State of Montana; Asking That the President and Congress Be Vigilant in Maintaining Quotas on Imported Meat or Meat Products and Requesting Rigid Inspection Requirements for Imported Meat or Meat Products.	1179
House Joint Resolution No. 5	A Joint Resolution of the Senate and House of Representatives to Request the Honorable Lawrence J. O'Brien, Postmaster General of the United States, to Maintain Present Railway Post Office Car Service Within the State of Montana, in the Interest of Preserving Mail and Passenger Train Service to Communiites of the State.	1180
House Joint Resolution No. 6	A Joint Resolution of the Senate and House of Representatives of the State of Montana Instructing the Fish and Game Commission to Create a State Park in the Area Known as Little Jerusalem Rocks.	1182
House Joint Resolution No. 7	A Joint Resolution of the Senate and House of Representatives of the State of Montana Urging the Development of a Program of Education for the Youth and Adults of Our State About the Nature and Effects of Alcohol and Narcotic, Depressant, Stimulant and Hallucinogenic Drugs.	1183
House Joint Resolution No. 13	A Joint Resolution of the Senate and House of Representatives of the State of Montana, to the Montana Congressional Delegation, to the United States Secretary of Commerce and to the Federal Bureau of Public Roads Administrator, Urging That Necessary Steps Be Taken to Introduce Legislation to Amend a Federal Law Relating to Highways, to Permit a State to Build Additional Primary System Mileage When Seventy-five Percent (75%) of a State's Primary System Is Completed and Maintained, Instead of Ninety Percent (90%) as Presently Required.	1184
House Joint Resolution No. 15	A Joint Resolution of the Senate and House of Representatives of the State of Montana Providing for a Special Committee to Inquire Into the Requirements Necessary to Insure a High Quality of Legislative Employees.	1186
House Joint Resolution No. 16	A Joint Resolution of the Senate and House of Representatives Consenting to a Football and Track Facility at the University of Montana.	1187

HeinOnline -- 1967 vol. I xxxv 1967

No.	Title	Page
House Joint Resolution No. 19	A Joint Resolution of the Senate and House of Representatives of the State of Montana Instructing the Fish and Game Commission to Create a State Park in the Area to Be Known as Rosebud State Park.	1187
House Joint Resolution No. 21	A Joint Resolution of the Senate and House of Representatives of the State of Montana Establishing the Public Policy of the State of Montana in Maintaining the Unique Natural Features of the Yellowstone River.	1188
House Joint Resolution No. 22	A Joint Resolution of the Senate and the House of Representatives of the State of Montana to the Honorable Lyndon B. Johnson, President of the United States; the Honorable Robert MacNamara, Secretary of Defense; the Honorable Eugene Zuckert, Secretary of the Air Force; the Honorable Mike Mansfield, United States Senator from Montana; the Honorable Lee Metcalf, United States Senator from Montana; the Honorable Arnold Olsen, United States Representative from Montana; the Honorable James Battin, United States Representative from Montana; Urging That the Strategic Air Command Return to Their Original Widths Certain Roads Used for Missile Site Construction and Emplacement in Cascade, Chouteau, Judith Basin, Pondera, Teton, and Toole Counties, Montana.	1192
House Joint Resolution No. 23	A Joint Resolution of the Senate and House of Representatives of the State of Montana Requesting the Legislative Council to Conduct a Comprehensive Study of All Governmentally Supported Vocational Technical Educational Facilities in the State of Montana; to Determine Whether Those Now Existing Are Adequate, or whether in the Alternative There Is Need for More Such Facilities and Opportunities; and to Make a Report of Its Findings to the Forty-first Legislative Assembly of the State of Montana.	1193
House Joint Resolution No. 24	A Joint Resolution of the Senate and House of Representatives Directing the State Water Conservation Board to Assign Responsibility for the Development and Maintenance of Recreational Facilities on Cooney Reservoir to the State Fish and Game Commission.	1195
House Joint Resolution No. 25	A Joint Resolution of the Senate and House of Representatives of the State of Montana to the President of the Senate and to the Speaker of the House; to the Honorable Mike Mansfield and the Honorable Leet Metcalf, Senators from the State of Montana; to the Honorable James Battin and the Honorable Arnold H. Olsen, Representatives from the State of Montana; Urging That Appropriate Legislation Be Enacted Which Would Protect the State of Montana in the Rights to the Use of Its Waters.	1196
House Joint Resolution No. 26	A Joint Resolution of the Senate and House of Representatives of the Fortieth Legislative Assembly of the State of Montana to the Congress of the United States, Urging Immediate Funds Be Allocated for the Enlargement of the Veterans Administration Hospital at Fort Harrison, Montana.	1198
House Joint Resolution No. 28	A Joint Resolution of the Senate and House of Representatives of the State of Montana, to Request the Department of Defense to Establish an Adequate and Permanent National Cemetery System Available With Burial Spaces in National Cemeteries for All U. S. Military Service Men and Women Who Are Entitled to the Same and Wish to Be Interred There.	1198
House Joint Resolution No. 30	A Joint Resolution of the Senate and House of Representatives of the State of Montana to the Secretary of the Interior and to the Honorable Mike Mansfield and the Honorable Lee Metcalf, Senators from the State of Montana; to the Honorable James Battin and the Honorable Arnold H. Olsen, Representatives from the State of Montana; Concerning Land Limitation Legislation.	1200
House Joint Resolution No. 35	A Joint Resolution of the Senate and House of Representatives of the State of Montana, to the Montana Congressional Delegation and to Secretary of the Interior Stewart Udall, Asking for Passage of Legislation Entitled "To Provide for Guaranty and Insurance of Loans to Indians and Indian Organizations."	1201
House Joint Resolution No. 37	A Joint Resolution of the Senate and House of Representatives of the State of Montana Providing That the Legislative Bodies of the State of Montana Endorse the Earliest Possible Construction of an All-Weather Road Extending from Billings, Montana to the Yellowtail Reservoir and Providing That This Resolution be Sent to the Honorable Mike Mansfield, and the Honorable Lee Metcalf, in the United States Senate, the Honorable James Battin and the	

HeinOnline -- 1967 vol. I xxxvi 1967

No.	Title	Page
	Honorable Arnold Olsen in the United States House of Representatives, the Bureau of Public Roads, the Department of the Interior and the Crow Tribal Council.	1202

SENATE JOINT RESOLUTIONS

No.	Title	Page
Senate Joint Resolution No. 1	A Joint Resolution of the Senate and House of Representatives of Montana Urging the Governor to Request the Secretary of Health, Education, and Welfare to Call a Conference on Air Pollution in the Vicinity of Garrison, Montana.	1203
Senate Joint Resolution No. 2	A Joint Resolution of the Senate and House of Representatives of the State of Montana to the President of the United States, the Honorable Lyndon B. Johnson; to the Speaker of the House and the President of the Senate; to the Clerk of the House of Representatives and the Secretary of the Senate; to the Committee on Appropriations of the United States Senate; to the Commitee on Appropriations of the House of Representatives; to the Committee on Public Works of the House of Representatives; to the Honorable Mike Mansfield and the Honorable Lee Metcalf, Senators from the State of Montana; to the Honorable Arnold H. Olsen and the Honorable James Battin, Representatives from the State of Montana; to the Honorable Charles L. Schultze, Director, Bureau of the Budget; to the Honorable Stephen Ailes, Secretary of the Army; to the Honorable Lt. General W. K. Wilson, Jr., Chief of Engineers, Army Corps of Engineers; Requesting a Review and Redefinition of the Present Land Acquisition Policy in the Libby Dam Area.	1204
Senate Joint Resolution No. 3	A Joint Resolution of the Senate and House of Representatives of the Legislative Assembly of the State of Montana Requesting That the Legislative Council Conduct a Study of the Laws Relating to Municipal Elections With a View to Suggesting Amendments That Would Allow Municipalities to Hold Their Elections in Connection With the General Election, and Whether It Would Be Practicable to use Voting Machines in Said Elections.	1206
Senate Joint Resolution No. 5	A Resolution of the Legislature of Montana Relating to the Issuance of a Commemorative Postage Stamp for Phoebe Apperson Hearst.	1207
Senate Joint Resolution No. 6	A Joint Resolution of the Senate and House of Representatives of the State of Montana to the President of the United States, to the Speaker of the House of Representatives and President of the Senate of the United States Congress, to All Members of the Montana Congressional Delegation, and to the Legislatures of All Other States Requesting that Congress and the Executive Branch of the Federal Government Establish a Plan Which Returns a Percentage of the Federal Income Tax to the States and Inviting the Legislatures of the Other Forty-Nine States to Join With Montana in this Request.	1207
Senate Joint Resolution No. 7	A Joint Resolution of the Senate and House of Representatives of the State of Montana, Ratifying the Proposed Amendment to the Constitution of the United States Relating to Presidential Succession.	1209
Senate Joint Resolution No. 9	A Joint Resolution of the Senate and House of Representatives of the State of Montana Registering Opposition to the Proposed Merger of the Great Northern; Northern Pacific; Chicago, Burlington and Quincy; and the Spokane, Portland and Seattle Railroads.	1211
Senate Joint Resolution No. 10	A Joint Resolution of the Senate and House of Representatives of the State of Montana for the Establishment of a Multi-State Planning Commission for Proper Utilization of the Glasgow Air Force Base After It Is Closed and for the Other Benefits Available to Montana and Its Neighboring States Under the Provisions of the Public Works and Economic Development Act of 1965.	1212
Senate Joint Resolution No. 12	A Joint Resolution of the Senate and House of Representatives of the State of Montana Requesting the Montana Congressional Delegation in Washington, D. C. to Seek and Initiate a Line Item Appropriation for the Reconstruction of a Portion of the Beartooth Highway and to Attach Said Appropriation to the National Park Service Appropriation or any Other Department or Agency Which Might Better Supervise Said Reconstruction.	1213

HeinOnline -- 1967 vol. I xxxvii 1967

No.	Title	Page
Senate Joint Resolution No. 13	A Joint Resolution of the Senate and House of Representatives of the State of Montana to the President of the United States Senate, the Honorable Hubert Humphrey; to the Honorable John McCormack, Speaker of the United States House of Representatives; to the Honorable Mike Mansfield, United States Senator from Montana; the Honorable Lee Metcalf, United States Senator from Montana; the Honorable James Battin, United States Representative from Montana; the Honorable Arnold Olsen, United States Representative from Montana; Requesting That the Congress of the United States Conduct Hearings on the Subject of Percentage Distribution of National Forest Receipts for Schools and Roads, and to Adjust the Method of Computation to Restore a Proportionate Relation to Local Governmental Costs.	1215
Senate Joint Resolution No. 14	A Joint Resolution of the Senate and House of Representatives of the State of Montana to Lyndon B. Johnson, President of the United States; to the Honorable Hubert Humphrey, President of the United States Senate; the Honorable John McCormack, Speaker of the United States House of Representatives; to the Honorable Michael Mansfield, United States Senator from Montana; to the Honorable Lee Metcalf, United States Senator from Montana; to the Honorable James Battin, United States Representative from Montana; to the Honorable Arnold Olsen, United States Representative from Montana; and to the Honorable Orville Freeman, Secretary of Agriculture; Requesting That Federal Agencies Refrain from Selling Surplus Commodities as a Device to Drive Down Prices in the Market Place.	1216
Senate Joint Resolution No. 17	A Joint Resolution of the Senate and House of Representatives Requesting that the Legislative Council Conduct a Study to Determine the Need of Establishing Uniform Design and Construction Standards Relating to the Building Industry in Montana.	1217
Senate Joint Resolution No. 19	A Joint Resolution of the Senate and House of Representatives Requesting That the Governor Appoint a Committee to Study the Diversified Uses of State Lands and to Recommend Such Plans and Programs as the Committee Deems Necessary to Provide for the Overall Use of State Lands for Both Public Recreation and Agricultural Pursuits to the Greatest Benefit for the Public in General.	1218
Senate Joint Resolution No. 20	A Joint Resolution of the Senate and House of Representatives of the State of Montana Requesting and Urging That the Congress of the United States Take Effective Action to Restore to the State of Montana the Full Amount of the Funds Which Were Apportioned to the State Under the Provisions of the Federal Highway Acts of 1964 and 1965.	1220
Senate Joint Resolution No. 22	A Joint Resolution of the Senate and House of Representatives of the State of Montana Requesting the Legislative Council to Conduct a Study of the State Board of Food Distributors, Ex Officio Montana Trade Commission; the Unfair Practices Act; and Various State Business Licensing Requirements, Practices, and Coverage; and to Report Its Findings to the Forty-first Legislative Assembly.	1221

HeinOnline -- 1967 vol. I xxxviii 1967

CONTENTS

EXTRAORDINARY SESSION

Chap.	Senate Bill	House Bill	Title	Page
1		3	An Act Creating a State Law Enforcement Teletypewriter Communications System; Providing for an Administrative Committee to Administer the Provisions of the Act; Providing for Duties of the State Attorney General in Administering the Act; Providing for Charges to Be Established and Providing for Disposition of Moneys Collected; Providing for an Appropriation to Carry Out the Provisions of the Act.	1225
2		39	An Act Amending Section 32-1123, R.C.M. 1947, Relating to Maximum Dimensions, Weights and Other Characteristics and Factors of Vehicles, Providing That Limitations Shall Not Exceed Those for the Federal Interstate Highway System Until Federal Law Permits States to Exceed Same; Amending Sections 32-3301, 32-3302, 32-3303, 32-3305 and 32-3306, R.C.M. 1947, Enacted as Sections 6-201, 6-202, 6-203 and 6-205, Chapter 197, Laws of 1965, Relating to Additional Fees on Motor Trucks, Truck-Tractors, Trailers, Semitrailers and House Trailers and Increasing the Fees; Providing That Additional Fees for Each Motor Truck or Truck-Tractor, Based Upon Maximum Gross Loaded Weight of Combinations With Trailers and Semitrailers, May Be Paid Instead of Additional Fees Provided for in Sections 32-3301 and 32-3302, R.C.M. 1947, and Allowing for Exemptions; and Providing an Effective Date.	1228
3		29	An Act Directing the Budget Director to Contract for the Preparation of a Classification and Compensation Plan of State Employees and Appropriating the Necessary Monies and Repealing Sections 59-1201 Through 59-1215, Inclusive, R.C.M. 1947.	1237
4		40	An Act to Amend Section 84-1501, R.C.M. 1947, to Increase the Tax Rate from Four and One-half Percent (4½%) to Five and One-half Percent (5½%) for All Taxable Years Ending On or After February 28, 1967, and Providing an Effective Date.	1239
5		41	An Act to Amend Section 84-4902, R.C.M. 1947, Relating to the Rate of Income Tax, to Provide an Increased Rate of Income Tax for All Taxable Years Commencing on or After December 31, 1966; Providing an Effective Date; and Further Providing for a Tax Allowance of Five Percent (5%).	1242
6		42	An Act to Amend Section 84-1801.1 of the Revised Codes of Montana, 1947, Increasing the Gasoline License Tax from Six Cents (6c) to Six and One-half Cents (6½c) Per Gallon, Providing for Dealer Allowance for Evaporation and Other Loss; and Amending Section 84-1840 of the Revised Codes of Montana, 1947, Relating to Disposition of Funds Collected Under the Gasoline License Tax Providing that One Million Five Hundred Thousand Dollars ($1,500,000) of the State Highway Account in the Earmarked Revenue Fund Shall Be Expended by the State Highway Commission for the Construction, Reconstruction or Repair of Roads, Streets and Alleys in Counties and Incorporated Cities and Towns in Each Fiscal Year, and Providing That Such Funds May Be Disbursed Only Upon Bid and for Work Designed and Supervised by the State Highway Department; Repealing All Acts and Parts of Acts in Conflict Herewith, and Providing a Severability Clause.	1243

APPROPRIATIONS

House Bill	Title	Page
1	An Act Appropriating Moneys for the Operation of the Legislative Council and Legislative Audit Committee for the Biennium Ending June 30, 1969.	1249

House Bill	Title	Page
2	An Act to Appropriate Forty Percent (40%) of the Money in the Earmarked Revenue Fund, State Parks Account, as of the Close of Business on June 30, 1967, to the State Highway Commission for the Biennium Ending 1969, for Use and Expenditure as Provided by Section 32-2601, R.C.M. 1947; to Appropriate Sixty Percent (60%) of the Money in the Earmarked Revenue Fund, State Parks Account, as of the Close of Business on June 30, 1967, to the State Fish and Game Commission, for the Biennium Ending 1969, for Payment of Unpaid Obligations Incurred During the Biennium Ending 1967, and for Operation, Equipment, Land Acquisition, and Capital at State Parks Where Motor Boating Is Allowed; and to Appropriate to the State Fish and Game Commission for the Biennium Ending 1969, the Sum of Two Hundred Forty Thousand Dollars ($240,000) from the Earmarked Revenue Fund, State Parks Account, for Operation, Equipment, Land Acuisition, and Capital at State Parks Where Motor Boating Is Allowed; and Providing an Effective Date.	1249
4	An Act to Appropriate Monies for Construction of Agricultural Buildings at Montana State University.	1251
5	An Act to Appropriate Money from the General Fund to the County Printing Commission.	1252
6	An Act to Appropriate to the Attorney General, State Auditor, Governor, Railroad and Public Service Commission, Secretary of State, Supreme Court, State Treasurer, Superintendent of Public Instruction and the Board of Education for Operation and Capital for the Biennium Ending June 30, 1969.	1252
8	An Act to Appropriate Money for the Licensing and Examining Boards and Commissions of the State Government for the Biennium Ending June 30, 1969; and Providing Other Matters Properly Relating Thereto.	1259
9	An Act to Appropriate Money to Certain State Institutions for the Biennium Ending June 30, 1969.	1265
10	An Act to Appropriate Money to Certain State Agencies for the Biennium Ending June 30, 1969.	1272
11	An Act to Appropriate Money to the Montana Highway Commission for the Biennium Ending June 30, 1969.	1287
12	An Act Appropriating Monies to State Agencies for Capital Projects for the Biennium Ending June 30, 1969.	1290
13	An Act Appropriating Moneys to the State Controller for State Agencies and Institutions for Capital and Repair Projects for the Biennium Ending June 30, 1969; Authorizing the Sale of Thirteen Million Five Hundred Thousand Dollars ($13,500,000) of Building Bonds by the Montana State Board of Examiners; and Authorizing the Transfer of the Bond Sale Proceeds to the "Long-Range Building Program Account, Bond Proceeds and Insurance Clearance Fund."	1292
14	An Act Appropriating Moneys from the Earmarked Revenue Fund, State Highway Account, for an Interim Committee to Conduct a Comprehensive Study of the Administration and Operation of the Montana Highway Department in Cooperation With the Highway Commission and Report Its Findings and Recommendations to the Forty-first Legislative Assembly.	1297
17	An Act Appropriating Money for the Operation of the Extraordinary Session of the Fortieth Legislative Assembly Convened on March 3, 1967.	1299
21	An Act to Appropriate Money to Certain State Agencies for the Biennium Ending June 30, 1969.	1300
25	An Act Appropriating Money to the University of Montana, Montana State University, the Agricultural Experiment Station, the Cooperative Agricultural Extension Service, Montana College of Mineral Science and Technology, the Montana Bureau of Mines and Geology, Western Montana College, Eastern Montana College, Northern Montana College, Western Interstate Commission for Higher Education, Office of Executive Secretary of the Montana University System for Operation and Capital for the Biennium Ending June 30, 1969.	1314
28	An Act to Appropriate Money for the Support of Public Schools; Appropriating Money for the Foundation Program and School Transportation Payments for the Biennium Ending June 30, 1969; Providing for Appropriations for Payments to School Districts for Children of a State Employee Residing on the Property of State Institutions Who Attend School in the District for the Fiscal Years Ending June 30, 1968, and June 30, 1969; Appropriating Money for Vocational-Technical Programs for the Biennium Ending June 30, 1969; and Appropriating Money for the School for Deaf and Blind for the Biennium Ending June 30, 1969; and Reappropriating Certain Unexpended Balances Remaining on June 30, 1967.	1319

HeinOnline -- 1967 vol. I xl 1967

House Bill	Title	Page
33	An Act to Appropriate Moneys for Certain Agencies of State Government for the Biennium Ending June 30, 1967.	1322
34	An Act Appropriating Twenty-five Hundred Dollars ($2,500) from the General Fund to the State Board of Health for the Biennium Ending June 30, 1967 for the Purpose of Holding a Statewide Water Pollution and Water Quality Standards Hearing.	1322
36	An Act to Appropriate Moneys to the State Board of Health for the Fiscal Year Ending June 30, 1969, to Implement the Local Control Provisions of the Clean Air Act.	1322
37	An Act Appropriating Moneys from the General Fund for an Interim Committee to conduct a Study of the Operation of the Legislative Assembly and Report Its Findings and Recommendation to the Forty-first Legislative Assembly.	1323
43	An Act Appropriating Eight Thousand Dollars ($8,000) from the Federal and Private Revenue Fund, Capitol Building Account, to the State Controller for Capital Renovation in the Governor's Office for the Biennium Ending June 30, 1967.	1324

SESSION LAWS

CHAPTER 1

An Act Relating to the Organization and Procedures of the Fortieth Legislative Assembly; Prescribing the Duties and Compensation of Legislative Employees; and Specifying an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Duties and compensation set for employees of the 40th legislative assembly.

Section 1. The duties and compensation of the employees of the fortieth legislative assembly are as follows:

$25.00 per day.

(1) The secretary of the senate and chief clerk of the house of representatives shall receive twenty-five dollars ($25) per day each. Their duties are:

Duties

(a) To have custody of all records, bills, documents and other papers.

(b) To supervise the keeping of the journal, engrossing, and enrolling, and the handling of bills and resolutions.

(c) To deliver to the secretary of state at the close of each session, the journal, bill books, resolution books, and all copies of introduced and engrossed bills and resolutions.

(d) To collect from the chairmen or secretaries of all standing and special committees the minutes of such committees and deliver them to the state historical society.

$25.00 per day.

(2) The sergeants-at-arms of each house shall receive twenty-five dollars ($25) per day each. Their duties are:

Duties.

(a) To maintain order under the direction of the presiding officer.

(b) To serve all processes.

(c) To receive, distribute and have custody of supplies.

(d) To keep account for per diem, expenses, and mileage of members and employees, and prepare and submit all claims for payment.

HeinOnline -- 1967 vol. I 1 1967

(e) To take an inventory at the close of each session of all furniture, fixtures, supplies and other property and turn such property over to the state controller for custody until the next session. One copy of the inventory shall be kept on file in the office of the sergeant-at-arms.

$20.00 per day. Duties.

(3) The chief engrossing and enrolling clerks shall receive twenty dollars ($20) per day each. Their duties are:

(a) To engross or enroll all bills delivered to them within forty-eight (48) hours after they have been received, unless further time is granted.

Correction of errors.

(b) To correct clerical errors, with the consent of the secretary of the senate or chief clerk of the house, in any bill originating in the house by which they are employed. Clerical errors such as the following may be corrected:

(i) errors in spelling,

(ii) errors in numbering sections,

(iii) adding or deleting underlining or lines through matter to be stricken,

(iv) material copied incorrectly from the Revised Codes of Montana, 1947.

The secretary of the senate and chief clerk of the house shall inform the principal author and the presiding officer in writing of all such corrections. No bill shall be corrected after engrossment.

$19.00 per day.

(4) Bills committee chief clerks shall receive nineteen dollars ($19) per day. Secretaries to the judiciary, finance and claims, and appropriations committees shall receive nineteen dollars ($19) per day. Secretaries to other standing or special committees shall receive sixteen dollars and fifty cents ($16.50) per day each. All committee clerks and secretaries shall perform such duties as are assigned to them by the chairman of the committee by which they are employed.

$16.50 per day. Duties.

(5) The assistant secretary of the senate, assistant chief clerk of the house, assistant sergeants-at-arms, and chief mimeograph clerk shall receive nineteen dollars ($19) per day each. The journal clerks, bill clerks, chief printing clerks, the clerk to the chief clerk of the house, the stenographer to the secretary of the senate, chief stenographers, secretaries to presiding officers, secretaries

HeinOnline -- 1967 vol. I 2 1967

to majority and minority floor leaders, secretaries to sergeants-at-arms and bills coordinator shall receive nineteen dollars ($19) per day each. They shall perform such duties as are assigned to them by the persons to whom they are responsible.

$19.00 per day.

Duties.

(6) Assistant journal clerks, assistant bill clerks, assistant enrolling clerks, assistant engrossing clerks, assistant printing clerks, reading clerks, chief proof readers, payroll clerks, supply clerks, stenographers, mimeograph clerks, mailing clerks and filing clerks shall receive fifteen dollars ($15) per day each. They shall perform such duties as are assigned to them by the person to whom they are responsible.

$15.00 per day.

Duties.

(7) Proof readers, telephone operators and elevator operators shall receive thirteen dollars ($13) per day each. They shall perform such duties as are assigned to them by the persons to whom they are responsible.

$13.00 per day.

Duties.

(8) The chaplain of each house shall receive ten dollars ($10) per day. Their duties are to open each day's session with a prayer.

$10.00 per day.

Duties.

(9) Pages shall receive seven dollars ($7) per day each. They shall perform such duties as are assigned to them by the persons to whom they are responsible.

$7.00 per day.

Duties.

(10) Doorkeepers, watchmen, and all other employees of the legislative assembly not specifically enumerated in this act shall receive twelve dollars and fifty cents ($12.50) per day each. They shall perform such duties as are assigned to them by the persons to whom they are responsible.

$12.50 per day.

Duties.

(11) Typists shall receive fourteen dollars ($14) per day. They shall perform such duties as are assigned to them by the persons to whom they are responsible.

$14.00 per day.

Duties.

Section 2. The salaries specified in this act shall be paid for every day of the legislative session during which the employee is employed. The presiding officer of each house may authorize when necessary, the continued employment and compensation of employees for a period not to exceed fifteen (15) days after the adjournment of a session of the legislative assembly.

Pay for days of employment.

Section 3. The salaries specified in this act are effective only for employees of the fortieth legislative assembly.

40th legislative assembly only.

HeinOnline -- 1967 vol. I 3 1967

Effective immediately

Section 4. This act is effective on passage and approval.

Approved: January 16, 1967.

CHAPTER 2

An Act Creating the Montana Arts Council and Prescribing Its Powers and Duties.

Be it enacted by the Legislative Assembly of the State of Montana:

Montana arts council created.

Section 1. In recognition of the increasing importance of the arts in the lives of the citizens of Montana, of the need to provide opportunity for our young people to participate in the arts and to contribute to the great cultural heritage of our state and nation, and of the growing significance of the arts as an element which makes living and vacationing in Montana desirable to the people of other states, the Montana arts council is hereby created as an agency of state government.

Members—appointment—qualifications.

Section 2. The Montana arts council shall consist of fifteen (15) members appointed by the governor, by and with the consent of the senate. Insofar as possible, the governor shall appoint members from the various geographical areas of the state who have a keen interest in one or more of the arts and a willingness to devote time and effort in the public interest without compensation.

Term of office.

Section 3. The term of office of each member shall be five (5) years; provided, however, that of the members first appointed, five (5) shall be appointed for terms of one (1) year, five (5) for terms of three (3) years, and five (5) for terms of five (5) years. The governor shall

Chairman.

designate a chairman and a vice-chairman from the members of the council to serve as such at the pleasure of the governor. The chairman shall be the chief executive officer of the council. Other than the chairman, no member of the council who serves a full five (5) year term shall be eligible for reappointment during a one (1) year period following the expiration of his term. Each vacancy

Vacancy.

shall be filled for the balance of the unexpired term in the same manner as the original appointment. The members of the council shall not receive any compensation for

Actual expenses.

their services, but shall be reimbursed for their actual and

HeinOnline -- 1967 vol. I 4 1967

necessary expenses incurred in the performance of their duties as members of the council.

Executive committee.

Section 4. The council may select an executive committee of five (5) members and delegate to the committee such functions in aid of the efficient administration of the affairs of the council as the council deems advisable.

Powers of chairman.

Section 5. The chairman may employ, and at pleasure remove, administrative officers and other employees as may be needed and fix their compensation within the amounts made available for such purposes.

Duties of council.

Section 6. The duties of the council shall be:

(1) To encourage throughout the state the study and presentation of the arts and to stimulate public interest and participation therein;

(2) To cooperate with public and private institutions engaged within the state in artistic and cultural activities, including but not limited to, music, theatre, dance, painting, sculpture, architecture and allied arts and crafts and to make recommendations concerning appropriate methods to encourage participation in and appreciation of the arts to meet the legitimate needs and aspirations of persons in all parts of the state;

(3) To foster public interest in the cultural heritage of our state and to expand the state's cultural resources;

(4) To encourage and assist freedom of artistic expression essential for the well-being of the arts;

(5) To report to the governor and the legislature prior to the end of each even-numbered year. The report shall include a statement of all important activities and transactions of the council, with suggestions and recommendations for the better realization of the purposes of the council and the healthy growth and development of the arts in Montana.

Power to administer property.

Section 7. The council may acquire, accept, receive, dispose and administer in the name of the council any gifts, donations, properties, securities, bequests and legacies that may be made to it. Monies received by donation, gift, bequest or legacy, unless otherwise provided by the donor, shall be deposited in the earmarked revenue fund of the state treasury and used for the general operation of the council. The council is the official agency of the

HeinOnline -- 1967 vol. I 5 1967

state to receive and disburse any funds made available by the National Foundation on the Arts.

Power to contract.

Section 8. The council may contract with individuals, organizations and institutions for services or cooperative endeavors furthering the objectives of the council's programs.

Power to raise funds.

Section 9. The council may engage in such fund raising drives and public contribution campaigns as will contribute to its continued development and support. All revenues received in such manner shall be deposited in the earmarked revenue fund of the state treasury and may not be used for any purposes other than the improvement, development and operation and programs of the council.

Effective immediately.

Section 10. This act is effective on its passage and approval.

Approved: January 19, 1967.

CHAPTER 3

An Act to Approve and Legalize and Adopt as Prima Facie the Laws of Montana Replacement Volume Number 5 (in Two Parts) of the Revised Codes of Montana, 1947, as Published by the Publishers and Distributors of Said Codes, and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Replacement Volume No. 5, R.C.M. 1947, approved.

Section 1. Replacement Volume Number 5 (in two parts) of the Revised Codes of Montana, 1947, as published by the publishers and distributors of said Revised Codes of Montana, 1947, is hereby, as to both form and substance, approved, legalized and adopted as prima facie the laws of Montana now in force and effect with respect to the titles and subjects covered thereby. The sections of said replacement volume may be cited as sections of the Revised Codes of Montana, 1947, without reference to the session laws which enacted new matter or to the session laws which have amended the sections of the Revised Codes of Montana, 1947, as included in the original compilation of the Revised Codes of Montana, 1947.

Saving clause.

Section 2. Nothing herein contained shall be deemed as invalidating or in any manner affecting the legality of

HeinOnline -- 1967 vol. I 6 1967

any act or thing heretofore or hereafter done by authority of any enactment which is not included in said replacement volume and nothing herein contained shall affect the existence, validity, or enforcement of any act, enactment, or title thereof, statute, or code section, omitted from or erroneously, or incorrectly set forth in said replacement volume.

Section 3. This act is effective on its passage and approval. Effective immediately.

Approved: January 23, 1967.

CHAPTER 4

An Act to Amend the Montana Milk Control Law; Amending Section 27-401, R.C.M. 1947, by Declaring the Legislative Policy Extends to Milk Used for Manufacturing Purposes; Amending Section 27-402, R.C.M. 1947, by Removing the Word "Fluid"; Amending Section 27-403, R.C.M. 1947, by Changing the Definition of Milk and Providing for Three Classes of Milk; Amending Section 27-405, R.C.M. 1947, by Removing the Word "Fluid" and Clarifying the Duties of the Milk Control Board; Amending Section 27-407, R.C.M. 1947, by Providing for State-Wide Price Hearings Under Certain Circumstances and by Providing for Monthly Posting of Mandatory Minimum Prices for Class II and Class III Milk; Amending Section 27-415, R.C.M. 1947, by Removing the Confidential Classification of Certain Records of the Milk Control Board; Amending Section 27-426, R.C.M. 1947, by Authorizing the Milk Control Board to Require Additional Bonds to Be Posted by Milk Distributors Under Certain Circumstances; Providing a Severability Clause; and Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 27-401, R.C.M. 1947, is amended to read as follows: Amending clause.

"27-401. **Declaration of policy relating to milk.** It is hereby declared: Declaration of policy—extends to milk used for manufacturing purposes.

HeinOnline -- 1967 vol. I 7 1967

(a) That milk is a necessary article of food for human consumption;

(b) That the production and maintenance of an adequate supply of healthful milk of proper chemical and physical content, free from contamination, is vital to the public health and welfare;

(c) That the production, transportation, processing, storage, distribution and sale of milk, in the state of Montana, is an industry affecting the public health and interest;

(d) That unfair, unjust, destructive and demoralizing trade practices have been and are now being carried on in the production, transportation, processing, storage, distributions, and sale of milk, *and products manufactured therefrom,* which trade practices constitute a constant menace to the health and welfare of the inhabitants of this state and tend to undermine the sanitary regulations and standards of content and purity of milk;

(e) That health regulations alone are insufficient to prevent disturbances in the milk industry and to safeguard the consuming public from further inadequacy of a supply of this necessary commodity;

(f) That it is the policy of this state to promote, foster and encourage the intelligent production and orderly marketing of milk and cream *and products manufactured therefrom;* to eliminate speculation and waste, and to make the distribution thereof between the producer and consumer as direct as can be efficiently and economically done, and to stabilize the marketing of such commodities;

(g) That investigations have revealed and experience has shown that, due to the nature of milk and the conditions surrounding the production and marketing of milk, and due to the vital importance of milk to the health and well-being of the citizens of this state, it is necessary to invoke the police powers of the state to provide a constant supervision and regulation of the milk industry of the state to prevent the occurrence and recurrence of those unfair, unjust, destructive, demoralizing and chaotic conditions and trade practices within the industry, which have in the past affected the industry and which constantly threaten to be revived within the industry and to disrupt or destroy an adequate supply of pure and whole-

HeinOnline -- 1967 vol. I 8 1967

some milk to the consuming public and to the citizens of this state;

(h) That milk is a perishable commodity, which is easily contaminated with harmful bacteria, which cannot be stored for any great length of time, which must be produced and distributed fresh daily, and the supply of which cannot be regulated from day to day, but, due to natural and seasonal conditions, must be produced on a constantly uniform and even basis;

(i) That the demand for this perishable commodity fluctuates from day to day and from time to time making it necessary that the producers and distributors shall produce and carry on hand a surplus of milk in order to guarantee and insure to the consuming public an adequate supply at all times, which surplus must of necessity be converted into by-products of milk at great expense and ofttimes at a loss to the producer and distributor;

(j) That this surplus of milk, though necessary and unavoidable, unless regulated, tends to undermine and destroy the milk industry, which causes producers to relax their diligence in complying with the provisions of the health authorities and ofttimes to produce milk of an inferior and unsanitary quality;

(k) That investigation and experience have further shown that, due to the nature of milk and the conditions surrounding its production and marketing, unless the producers, distributors, and others engaged in the marketing of milk are guaranteed and insured a reasonable profit on milk, both the supply and quality of milk are affected to the detriment of, and against the best interest of the citizens of this state whose health and well-being are thereby vitally affected;

(l) That, where no supervision and regulation are provided for the orderly and profitable marketing of milk, past experience has shown that the credit status of both producers and distributors of milk is adversely affected to a serious degree thereby entailing loss and hardship upon all within the community with whom these producers and distributors carry on business relations;

(m) That, due to the nature of milk and the conditions surrounding its production and distribution, the natural law of supply and demand has been found in-

HeinOnline -- 1967 vol. I 9 1967

adequate to protect the industry in this and other states, and in the public interest it is necessary to provide state supervision and regulation of the milk industry in this state."

Amending clause.

Section 2. Section 27-402, R.C.M. 1947, is amended to read as follows:

General purpose of law.

"27-402. **General purpose.** The general purpose of this law is to protect and promote public welfare and to eliminate unfair and demoralizing trade practices in the milk industry. It is enacted in the exercise of the police powers of the state."

Amending clause.

Section 3. Section 27-403, R.C.M. 1947, is amended to read as follows:

Definitions.

"27.403. **Definitions.** As used in this act, unless the context otherwise requires, 'board' means the state agency created by this act, to be known as the Montana milk control board.

"Board."

"Person."

'Person' means any person, firm, corporation or *co-operative* association.

"Producer."

'Producer' means any person who produces milk for consumption within the state, selling same at wholesale to a distributor.

"Distributor."

'Distributor' means any person purchasing milk and distributing same for consumption within the state. Said term, however, excludes all persons purchasing milk from a dealer licensed under this act, for resale over the counter at retail, or for consumption on the premises.

"Producer-distributor."

'Producer-distributor' means any person both producing and distributing milk for consumption within the state.

"Dealer."

'Dealer' means any producer, distributor, or producer-distributor.

"Licensee."

'Licensee' means any person who holds a license from the board.

"Association."

'Association' means any organized group of dealers in a community or marketing area which has been constituted under regulations satisfactory to the board.

"Market."

'Market' means any area of the state designated by the board as a natural marketing area.

HeinOnline -- 1967 vol. I 10 1967

'Consumer' means any person or any agency, other than a dealer, who purchases milk for consumption or use. "Consumer."

'Milks' means *the lacteal secretion of a dairy animal or animals, including such secretions when raw and when cooled, pasteurized, standardized, or homogenized, recombined, concentrated fresh or otherwise processed and all of which is designated as grade A by duly constituted health authority.* "Milk."

Class I milk shall include all bottled or packaged milk, raw, pasteurized and homogenized, low fat, buttermilk, chocolate milk, *whipping cream, commercial cream, half and half, skim milk, fortified skim milk, skim milk flavored drinks, and any other fluid milk not specifically classified in this act.* Class I milk.

Class II milk shall include *milk used in the manufacture of ice cream and ice cream mix, ice milk, sherbet, eggnog, cultured sour cream, cottage cheese, condensed milk, and powdered skim for human consumption.* Class II milk.

Class III milk shall include milk used in the manufacture of butter, cheddar cheese, process cheese, livestock feed, powdered skim other than for human consumption, and skim milk dumped. Class III milk.

The board shall have power and authority to assign milk products hereafter developed to the class which in its discretion it determines to be proper." Assignment to class.

Section 4. Section 27-405, R.C.M. 1947, is amended to read as follows: Amending clause.

"27-405. **General powers of the milk control board.** General powers of the board—supervise, regulate and control milk industry.

(1) The board is hereby vested with the powers, and it shall be its duty to supervise, regulate and control the milk industry of the state of Montana, including the production, transportation, processing, storage, distribution and sale of milk in the state of Montana for consumption within the state, providing however, that nothing contained in this act shall be construed to abrogate or affect the status, force or operation of any provision of public health laws or the law under which the Montana livestock sanitary board is constituted together with the Montana livestock sanitary board regulations or county board of health regulations, or municipal ordinances for the promotion or protection of the public health, but the board

HeinOnline -- 1967 vol. I 11 1967

shall have the power to cooperate with the state board of health, the Montana livestock sanitary board or any county or city board of health or the state department of agriculture and industry in enforcing the provisions of this act.

Investigation.

(2) The board shall have the power *and it shall be its duty* to investigate all matters pertaining to the production, transportation, processing, storage, distribution and sale of milk in the state of Montana and to conduct hearings upon any subject pertinent to the administration of this act.

Power to subpoena.

The board shall have the power to subpoena milk dealers, their records, books and accounts, and any other person from whom information may be desired or deemed necessary to carry out the purposes and intent of this act, and may issue commissions to take depositions of witnesses who are sick or absent from the state or who cannot otherwise appear in person before the milk control board at its offices in the state capitol, provided at least ten (10) days notice is given to the proposed witness.

10 days notice.

Duty of sheriff.

(3) It shall be the duty of any sheriff of any county of the state, when requested to do so by the board, to execute any summons, citations or notice which the board may cause to be issued, for which such sheriff shall be authorized to charge the same fee against the funds provided for the milk control board as he might lawfully charge for the same service of such a document if issued from any district court of the state of Montana. Any

Compensation of witnesses.

person, other than a dealer who is cited for violation of the provisions of this act, or cited to show cause why his license should not be revoked, shall receive for his attendance before the milk control board or its duly designated agent the same compensation as is provided for a witness subpoenaed to appear before the district court, which shall be charged against the funds provided for the operation of the milk control board.

Agent—oaths—notice of hearings—hearings and investigations—subpoenas.

(4) Any duly designated agent of the board may administer oath to witnesses, may call and give notice of price hearings when the board is not in session and may conduct hearings or investigations and any such duly designated agent of the board may sign and issue subpoenas requiring witnesses to appear before him or the board, and in addition to the manner provided above for the execution of subpoenas, summons and citations issued by the milk control board to witnesses

HeinOnline -- 1967 vol. I 12 1967

or dealers, the board, through its designated agent shall have the power to serve said subpoenas, summons or citations upon any person by sending a copy of such subpoena, summons or citation, through the United States mail, postage prepaid, which said mail shall be registered with return receipt attached and such service shall be complete when said registered mail shall be delivered to said person and such receipt returned to the board or its designated agent, signed by the person sought to be summoned, subpoenaed, or cited. Obedience to a subpoena, summons or citation, issued by the board or any person authorized and designated by the board to issue said subpoena, summons or citation, may be enforced by application to any judge of the district court of the county in which such subpoena, summons or citation was issued or to any judge of the district court of the county in which such person subpoenaed, summoned or cited resides and said court shall order compliance with said subpoena, summons or citation and upon failure of the witness to attend, to testify, or to produce such books or papers or records as the board may have commanded, such witness may be punished for contempt of court as for failure to obey a subpoena issued by or to testify in a case pending before said court.

Enforcement of subpoena.

(5) The board may act as mediator or arbitrator to settle any controversy or issue pertaining to milk among or between producers, distributors, producer-distributors and/or consumers.

Board may act as mediator.

The operation and effect of any provisions of this act, conferring a general power upon the milk control board, shall not impair or limit any specific power or powers granted to the milk control board by this act."

Saving clause.

Section 5. Section 27-407, R.C.M. 1947, is amended to read as follows:

Amending clause.

"27-407. *(1)* **Orders fixing minimum prices** *for Class I milk.* Prior to the fixing of prices *for Class I milk* in any market the board shall conduct a public hearing and admit evidence under oath relative to the matters of its inquiry, at which hearing the consuming public shall be entitled to offer evidence and be heard the same as persons engaged in the milk industry. The board shall by means of such hearing or from facts within its own knowledge, investigate and determine what are reason-

Hearing on prices of Class I milk.

HeinOnline -- 1967 vol. I 13 1967

able costs and charges for producing, hauling, handling, processing, and/or other services performed in respect to milk and what prices for milk in the several localities and markets of the state, and under varying conditions, will best protect the milk industry in the state and insure a sufficient quantity of pure and wholesome milk to adults and minors in the state, and be most in the public interest.

Balance between production and consumption.

The board shall take into consideration the balance between production and consumption of milk, the costs of production and distribution, and prices in adjacent and neighboring areas and states, so that minimum prices which are fair and equitable to producers, distributors and consumers may result.

Notice of hearing.

The board shall, at least ten (10) days prior to the date set for any public hearing on minimum prices, cause notice to be given to the consuming public and the milk industry of the specific factors which shall be taken into consideration in determining costs of production and distribution and of the actual dollars and cents costs of production and distribution which preliminary studies and investigations of auditors or accountants in its employment indicate will or should be shown at the hearing, so that all interested parties will have opportunity to be heard and to question or rebut such considerations as a matter of record.

Notice of specific facts within knowledge of board.

If the board at any time proposes to base all or any part of any official order fixing minimum prices *on Class I milk* upon facts within its own knowledge, as distinguished from evidence which may be presented to it at a public hearing by the consuming public or the milk industry, the board shall, at least ten (10) days prior to the date set for any public hearing on minimum prices, cause notice to be given to the consuming public and the milk industry of the specific facts within its own knowledge which it will consider, so that all interested parties will have opportunity to be heard and to question or rebut such facts as a matter of record.

Written findings and conclusions —official order.

The board, after consideration of the evidence produced at such hearing, shall make written findings and conclusions and shall fix by official order:

Minimum price paid by dealers.

(a) The minimum prices to be paid by the milk dealers to producers and others for milk. Each order fixing minimum prices shall classify milk by forms, classes,

HeinOnline -- 1967 vol. I 14 1967

grades or uses as the board may deem advisable and shall specify the minimum prices therefor.

Marketing area.

The milk produced in one natural marketing area and sold in another natural marketing area shall be paid for by a distributor or dealer in accordance with the pricing order of the area where produced at the price therein specified of the class or use in which it is ultimately used or sold.

Freight.

No allowance for freight, other than freight for transportation of milk from the farm to plant, shall be charged to a producer by a distributor or dealer unless it is found and ordered by the board, after notice and hearing in the manner hereinbefore specified, that such an additional freight allowance is necessary to permit the movement of milk in the public interest.

Uniform basis.

All milk purchased within a natural marketing area by a distributor shall be purchased on a uniform basis. The basis to be used shall be established by the board after the producers and the distributors of the area have been consulted.

Minimum wholesale prices.

(b) The minimum wholesale prices to be charged for milk in its various forms, classes, grades, and uses when sold by distributors or producer-distributors to retail stores, restaurants, boarding houses, fraternities, sororities, confectioneries, public and private schools, including colleges and universities, and both public and private institutions and instrumentalities of all types and description.

Minimum retail prices.

(c) The minimum retail prices to be charged for milk in its various forms, classes, grades and uses when sold by distributors, producer-distributors, and retail stores to consumers.

Producer price.

A minimum producer, wholesale or retail price to be charged for milk shall not be fixed higher than is necessary to cover the costs of ordinarily efficient and economical milk dealers, including a reasonable return upon necessary investment.

Amendment of orders —hearings.

The board may, upon its own motion, or upon application in writing from any market, or from any party at interest, alter, revise or amend any official order theretofore made by the board provided that before making, revising, or amending any order fixing prices to be charged

HeinOnline -- 1967 vol. I 15 1967

or paid for *Class I* milk in any of its forms, classes, grades or uses, the board shall hold a public hearing on such matter in the same manner provided herein for the original fixing of prices*; provided, further, the board may in its discretion, when it determines the need exists, notice and hold statewide public hearings affecting minimum prices for Class I milk in all market areas of the state.*

Posting of minimum prices.

(2) Monthly posting of mandatory minimum prices for Class II and Class III milk. In order to assure both the supply and quality of milk and to prevent dilution of the minimum prices to be paid for Class I milk in the manner above provided, the board shall once each month, without notice or hearing, post and publish to the milk industry minimum prices which shall be paid to producers by Grade A distributors for Class II and Class III milk, in accordance with the following formulae:

CLASS II

Class II.

The average spray process nonfat dry milk solids price per pound, f.o.b. Chicago area, as most recently reported by the United States department of agriculture, multiplied by 8.2 (which is the amount of solids not fat in skim milk); plus the average Chicago area butter price (Grade A, 92 score), as most recently reported by the United States department of agriculture, multiplied by 4.2 (which is the amount of butter which can be produced from one hundred pounds of 3.5 milk); less an economic adjustment factor which shall be 10.5% of the total of the above two items. In the case of milk containing more or less than 3.5% butterfat, the differential to be employed in computing the price shall be determined by multiplying the above mentioned Chicago area butter price by .111.

CLASS III

Class III.

The average Chicago area butter price (Grade A, 92 score) as most recently reported by the United States department of agriculture, less ten percent (10%); and in addition, when skim milk in this classification is utilized by any distributor, the average spray process nonfat dry milk solids price per pound, f.o.b. Chicago area, as most recently reported by the United States department of agriculture, multiplied by 8.2, less fifty percent (50%). This act shall in no way be construed to give the board authority to fix wholesale and retail prices of products manufactured from Class II or Class III milk."

HeinOnline -- 1967 vol. I 16 1967

Section 6. Section 27-415, R.C.M. 1947, is amended to read as follows: Amending clause.

"27-415. **Entry, inspection and investigation.** The board, or any person designated for that purpose by the board, shall have access to, and may enter, at all reasonable hours, all places where milk is produced, processed, bottled, handled or stored, or where the books, papers, records, or documents relative to such transactions are kept and shall have the power to inspect and copy the same in any place within the state, and may administer oath, and take testimony for the purpose of ascertaining facts, which, in the judgment of the board, are necessary to administer this act." Entry, inspection and investigation.

Section 7. Section 27-426, R.C.M. 1947, is amended to read as follows: Amending clause.

"27-426. **Bonds required of distributors—amounts—forms and conditions.** Every distributor before purchasing any milk from a producer shall execute and deliver to the milk control board a surety bond in the minimum sum of one thousand dollars ($1,000), executed by the applicant as principal and by a surety company qualified and authorized to do business in this state as surety. Said bond shall be upon a form approved by the board and shall be conditioned upon the payment in the manner required by this act, of all amounts due to producers for milk purchased by such licensee or applicant during the license year. Said bond shall be to the state in favor of every producer of milk. In case of failure by a distributor to pay any producer or producers for milk in the manner required by this act, the board shall proceed forthwith to ascertain the names and addresses of all producer-creditors of such distributor, together with the amounts due and owing to them and each of them by such distributor, and shall request all such producer-creditors to file a vertified statement of their respective claims with the board. Thereupon the board shall bring an action on the bond on behalf of said producer-creditors. Upon any action being commenced upon said bond, the board may require the filing of a new bond; and immediately upon a recovery in any action upon such bond, such distributor shall file a new bond; and upon failure to file same within ten (10) days in either case, such failure shall constitute grounds for the revocation or suspension of the license of such distributor. In the event that recovery upon the bond Bonds required of distributors—amounts—forms and conditions. New bonds.

HeinOnline -- 1967 vol. I 17 1967

is not sufficient to pay all of the claims as finally determined and adjudged by the court, any such amount recovered shall be divided pro rata among said producer-creditors.

Minimum bonds.

The minimum bond of one thousand dollars ($1,000) shall be required of distributors purchasing an average daily quantity of milk of less than one hundred gallons; distributors purchasing an average daily quantity of one hundred gallons and less than two hundred gallons during any calendar month during a license year shall post a bond in the amount of two thousand dollars ($2,000); distributors purchasing an average daily quantity of two hundred gallons and less than three hundred gallons during any calendar month during a license year shall post a bond in the amount of three thousand dollars ($3,000); distributors purchasing an average daily quantity of three hundred gallons or more during any calendar month during a license year shall post a bond in the sum of five thousand dollars ($5,000).

Additional bonds.

In the event that any distributor so increases his purchases of milk during the license year that said purchases exceed the amount for which said distributor is bonded, said distributor shall forthwith post such additional bond or bonds as may be required to comply with the provisions of this section.

The board is authorized to require any distributor to furnish a bond or bonds in addition to those specified above if, after notice and hearing and upon good cause shown, it determines such additional bond or bonds are required to assure payment of all amounts due or to become due to producers.

Violations.

Failure of any distributor who purchases milk from producers to execute and deliver the bond as herein provided and required shall constitute a violation of this act; failure of any such distributor to post such additional bond or bonds as may be required to comply with the provisions of this act shall likewise constitute a violation of this act."

Saving clause.

Section 8. If any section, subdivision, sentence or word of this act shall be determined by a court of competent jurisdiction to be unconstitutional or inoperative, such determination shall not affect the remaining portions of this act.

HeinOnline -- 1967 vol. I 18 1967

Section 9. All acts and parts of acts in conflict herewith are hereby repealed. Repealing clause.

Approved: January 23, 1967.

CHAPTER 5

An Act Authorizing the Use of Certified Mail Where Notification by Registered Mail Is Required.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. For purposes of legal notification, the term "registered mail" includes registered or certified mail in the Revised Codes of Montana, 1947. "Registered mail" to include registered or certified mail.

Approved: January 25, 1967.

CHAPTER 6

An Act to Amend Section 5-532, R.C.M. 1947, Relating to Reserve Requirements of Banks.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 5-532, R.C.M. 1947, is amended to read as follows: Amending clause.

'5-532. (6014.57) **Reserve requirements.** Every bank, except a reserve bank, shall maintain at all times a reserve of *such percentage* of its deposit liabilities *as shall be determined by the superintendent of banks as hereinafter provided,* of which reserve such portion as the board of directors may determine may be on deposit in banks approved by the superintendent of banks as reserve banks. Reserve requirements.

The superintendent of banks is authorized and empowered to raise or lower and to establish reserves which shall be maintained on demand deposits and on time deposits as in his judgment banking conditions may justify, provided such power to raise or lower and to establish reserves shall be limited to a percentage of such deposits not in excess of reserve requirements which may be established from time to time for banks that are members of the federal reserve system nor less than seventy-five per centum (75%) of reserve requirements which may be established from time Superintendent is authorized to establish reserves. Limitation.

HeinOnline -- 1967 vol. I 19 1967

Reserve—percentages.

to time for banks that are members of the federal reserve system. A bank approved by the superintendent of banks as a reserve bank must at all times maintain a reserve of *such percentage or percentages as the superintendent of banks shall determine from time to time, which shall not be less than the percentages hereinbefore specified* of its deposit liabilities, of which such portion as the board of directors may determine, may be on deposit in banks approved by the superintendent of banks as reserve banks.

Reserve bank—requirements.

Any solvent bank of good repute having a full paid up capital and surplus of *three* hundred thousand dollars *($300,000),* doing business in the state of Montana, or any of the states of the United States may be designated by the superintendent of banks as a reserve agent for Montana state banking institutions. Such approval or designation may be withdrawn or withheld at any time by the superintendent of banks for cause. Whenever the reserve of any bank shall fall below the amount required herein to be kept, such bank shall not increase its loans or discounts otherwise than by discounting or purchasing bills of exchange payable at sight or on demand, and the superintendent of banks shall notify any bank whose reserve may be below the amount herein required, to make good such reserve. In arriving at deposit liabilities with regard to bank deposits, the net balance of amounts due to and from other banks shall be taken as the basis for ascertaining the deposit liability to banks against which reserves shall be carried, provided, a compliance with the federal reserve banking laws, rules and regulations by member banks shall be held to be a compliance with the reserve requirements and conditions of this act."

Deposit liabilities.

Approved January 25, 1967.

CHAPTER 7

An Act Amending Section 10-622, R.C.M. 1947, as Amended by Chapter 94, Laws of 1965, Relating to Probation Officers, to Increase Salaries of Such Officers.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 10-622, R.C.M. 1947, as amended by chapter 94, Laws of 1965, is hereby amended to read as follows:

HeinOnline -- 1967 vol. I 20 1967

"10-622. **Probation officers—appointments—removal —salaries.** In every judicial district of the state of Montana the judge thereof having jurisdiction of juvenile matters may appoint one discreet person of good moral character, who shall be known as the chief probation officer of such district and who shall hold his office until removed by the court. Such officer shall receive for his services such sum as shall be specified by the court upon appointment, provided that the judge of the district court may employ him on a yearly salary not to exceed *nine thousand dollars ($9,000),* or on a per diem basis for the time actually and necessarily employed in performing the duties of the office. The salary of such officer shall be apportioned among and paid by each of said counties in which said officer shall be appointed to act, in proportion to the assessed valuation of such counties for the year then current, except that where such official is appointed for one county, his salary shall be paid by that county.

Chief probation officer—appointment—removal.

Salary.

The judge having jurisdiction of juvenile matters may also appoint such additional persons to serve as deputy probation officers as the judge deems necessary; their salaries to be fixed by the judge at the time of appointment, provided that such salaries shall not exceed ninety per cent (90%) of the salary of the chief probation officer."

Deputy probation officers.

Salaries.

Approved: January 25, 1967.

CHAPTER 8

An Act Reducing the Interest Rate on Purchase Money Paid to Tax Sale Purchasers by Redemptioners; Amending Section 84-4130, R.C.M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 84-4130, R.C.M. 1947, is amended to read as follows:

Amending clause.

"84-4130. **Lien of state when vests in purchaser—how alone divested.** On filing the certificate with the county clerk, the lien of the state vests in the purchaser, and is only divested by the payment to him or to the county treasurer for his use of the purchase money and *two-thirds (2/3) of* one per cent additional for each month that elapses from the date of the sale until redeemed."

Lien of state—vesting in purchaser—how divested.

Approved: January 25, 1967.

HeinOnline -- 1967 vol. I 21 1967

CHAPTER 9

An Act to Provide for the Use of the Word "Pharmacy"; Amending Section 66-1508, R.C.M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 66-1508, R.C.M. 1947, is amended to read as follows:

"66-1508. **Store license—certified pharmacy license—suspension or revocation.**

License—fee.

(a) The state board of pharmacy shall upon application upon such forms as it may prescribe and upon the payment of an annual fee of five dollars ($5.00), license stores other than a pharmacy wherein may be sold ordinary household or medicinal drugs prepared in sealed packages or bottles by a manufacturer, qualified under the laws of the state wherein such manufacturer resides. The name and address of such manufacturer shall appear conspicuously on each package sold by such licensee. It

Unlawful—when.

shall be unlawful for any such store to sell, deliver or give away such household medicinal drugs, without first having secured such license and thereafter keeping the same in force by proper renewal, provided, also, that nothing herein shall be construed to prevent any vendor from selling any patent or proprietary medicine in the original package when plainly labeled, nor such non-medical articles as are usually sold by such vendors.

"Certified pharmacy" —qualifications.

(b) The state board of pharmacy shall require and provide for the annual registration and licensing of every pharmacy now or hereafter doing business within this state within the meaning of the act. Upon presentation of evidence satisfactory to the board and upon application upon such form as the board may prescribe and upon the payment of an annual fee of five dollars ($5.00), the board shall license any pharmacy as a "CERTIFIED PHARMACY," provided, however, that such license shall be granted only to such pharmacies as are operated by registered pharmacists or assistant registered pharmacists qualified as herein prescribed. Such license must be exposed in a conspicuous place in the pharmacy for which it is issued, and shall expire on the thirtieth day of June following the date of issue. It shall be unlawful for any person to conduct such pharmacy, *to use the word pharmacy to identify his business or to use the word pharmacy*

HeinOnline -- 1967 vol. I 22 1967

in any advertising unless such license has been duly issued and is in full force and effect.

Suspension and revocation of licenses—when.

(c) The board may suspend, revoke or refuse to renew any store or pharmacy license obtained by false representation, or fraud of any character, or when the pharmacy for which the license shall have been issued is kept open for the transaction of business without a pharmacist in charge thereof, or when the person to whom the license shall have been granted has been convicted for violation of any of the provisions of the act or for a felony, or convicted for any violation of the Federal Food, Drug and Cosmetic Act of June 25, 1938, (52 United States Statutes at Large, 1040 through 1059; Title 21, United States Code, sections 301 - 392 as from time to time revised, amended, and supplemented), or, if a natural person, whose pharmacist or assistant pharmacist license has been revoked, or when the store or pharmacy is conducted in violation of the provisions of this act. Before any license can be revoked the holder thereof shall be entitled to a hearing by the board after reasonable notice, and judicial review of the action of the board."

Hearing—notice—judicial review.

Approved: January 30, 1967.

CHAPTER 10

An Act Amending Section 15-2103, R.C.M. 1947, to Include Pharmacists, Physical Therapists Within the Provisions of the Professional Service Corporation Act.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 15-2103, R.C.M. 1947, is amended to read as follows:

"15-2103. **Definitions.** As used in this act, the following words shall have the meaning indicated:

"Professional service" to include pharmacists and physical therapists.

(1) The term "professional service" means any professional service rendered by attorneys, certified public accountants, public accountants, chiropractors, dentists, osteopaths, doctors of medicine, chiropodists, architects, veterinarians, optometrists, nurses, *pharmacists, physical therapists* and professional engineers.

HeinOnline -- 1967 vol. I 23 1967

"Professional corporation."

(2) The term "professional corporation" means a corporation which is organized under this act for the sole and specific purpose of rendering professional service, and which has as its shareholders only individuals who themselves are duly licensed or otherwise legally authorized within this state to render the same professional service as the corporation."

Approved: January 30, 1967.

CHAPTER 11

An Act to Amend Section 5-1130, R.C.M. 1947, Relating to Borrowing Money for Capital Purposes by Any Commercial Bank, Savings Bank, Trust Company or Investment Company and the Issuance of Capital Notes or Debentures Therefor.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 5-1130, R.C.M. 1947, is amended to read as follows:

Power to borrow money for capital purposes.

"5-1130. **Borrowing money for capital purposes—status of capital.** Notwithstanding any other provision of law any commercial bank, savings bank, trust company or investment company, now in existence or which may be hereafter formed, shall have the power to borrow money for capital purposes upon such terms and conditions as may be approved by the superintendent of banks, and for this purpose may issue capital notes or debentures therefor, such notes or debentures to be subordinate in right of payment to the payment in *full of* all deposits of such bank, savings bank, trust company or investment company. The amount of money so borrowed shall be considered as capital for the purpose of determining the maximum amount of money that may be loaned by such bank, savings bank, trust company or investment company to any person, copartnership or corporation, and for the purpose of determining the maximum amount of money which such bank may borrow, and for all other purposes of bank capital as may be required by law, *except that the money so borrowed shall not in any event be considered in ascertaining the value and assessment of shares of any bank for the purpose of taxation.*"

Notes and debentures —priority.

Capital—criteria.

Value for taxation excepted.

Approved: January 31, 1967.

HeinOnline -- 1967 vol. I 24 1967

CHAPTER 12

An Act to Change the Name of "Committee on Problems of Aging" to "Commission on Aging"; Amending Sections 82-3501, 82-3502, 82-3503, 82-3504, 82-3505, and 82-3506, R.C.M. 1947; Providing for an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 82-3501, R.C.M. 1947, is amended to read as follows: Amending clause.

"82-3501. *Commission* **created.** There is hereby created the *commission* on aging, hereafter called "the *Commission.*" " Creation of commission on aging.

Section 2. Section 82-3502, R.C.M. 1947, is amended to read as follows: Amending clause.

"82-3502. **Composition of** *commission* **— appointment and terms of members.** The *commission* shall consist of fifteen (15) members appointed by the governor as follows: One (1) member each from the following offices: state board of health, department of public institutions, Montana medical association, public employees retirement system, department of public welfare, Montana nurses association, Montana nursing home association, the legislative assembly. Seven (7) citizen members shall be selected on the basis of active interest, experience and ability, none of whom shall be employees of the state. Five (5) *commission* members shall be appointed initially for terms of one (1) year; five (5) shall be appointed initially for terms of two (2) years, five shall be appointed initially for terms of three (3) years. An appointment to replace a member whose term has expired shall be for three (3) years. An appointment to replace a member whose term has not expired shall be for the remainder of the term." Commission—appointment and terms. Qualification of citizen members.

Section 3. Section 82-3503, R.C.M. 1947, is amended to read as follows: Amending clause.

"82-3503. **Quorum of** *commission*—**officers—meetings.** A majority of the members of the *commission* shall constitute a quorum for the transaction of business. The *commission* shall elect a chairman, a vice-chairman, a secretary and such other officers as it deems necessary. The *commission* shall meet on call of the chairman of the *commission* or the governor." Quorum. Officers. Meetings.

HeinOnline -- 1967 vol. I 25 1967

Amending clause.

Section 4. Section 82-3504, R.C.M. 1947, is amended to read as follows:

Functions of commission.

"82-3504. **Functions of** *commission.* The *commission* shall: 1. Consult with and advise organized efforts by communities, organizations, associations and groups that are working toward any and all forms of assistance to problems of aging.

2. Study and identify problems of aging.

3. Review existing programs for the aging and make recommendations to the governor and the legislature for improvements in such programs.

4. Encourage the sponsorship of community projects which will seek to make optimum use of the time and talents of retired persons."

Amending clause.

Section 5. Section 82-3505, R.C.M. 1947, is amended to read as follows:

Grants and gifts —disposition.

"82-3505. **Grants and gifts to** *commission*—**deposit and availability.** The *commission* may receive on behalf of the state any grant from the federal government or any grant or gift from any source and accept the same so that the title shall pass to the state. All grants, grants-in-aid, or gifts shall be deposited with the state treasurer and shall be continuously available to the *commission.*"

Amending clause.

Section 6. Section 82-3506, R.C.M. 1947, is amended to read as follows:

Report of commission.

"82-3506. **Report to governor and legislative assembly.** The *commission* shall report to the governor and legislative assembly prior to the end of each even-numbered year."

Effective immediately.

Section 7. This act is effective on its passage and approval.

Approved: February 2, 1967.

CHAPTER 13

An Act Relating to the Acquisition, Erection, Equipment, Enlargement and Improvement of Housing and Other Revenue-Producing Facilities at Units of the Montana University System, and the Collection of Charges, Ad-

HeinOnline -- 1967 vol. I 26 1967

missions and Fees for Such Facilities; Amending Sections 75-216 and 82-3316, R.C.M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 75-216, R.C.M. 1947, is amended to read as follows: Amending clause.

"75-216. **Powers of regents enumerated.** The regents of the *Montana university system* of Montana may: Powers of regents.

(1) Acquire, erect, equip, enlarge and improve, at any unit of the *Montana university system,* any of the following types of revenue-producing facilities: *land,* residence halls, dormitories, *houses,* apartments and other housing facilities; dining rooms and halls, *restaurants, cafeterias* and other food service facilities; student union buildings and facilities; and those other facilities specifically authorized by joint resolution of the legislative assembly. Revenue-producing facilities.

(2) Rent housing facilities and provide food and other services to the students, officers, guests and employees of the unit at rates that will insure a reasonable net income over operating expenses and will provide for debt service and reserves, and provide for the collection of charges, admissions and fees for the use of other facilities by students and other persons, which charges, admissions and fees shall not be deemed to be tuition within the meaning of section 75-506 of the Revised Codes of Montana, 1947, and may be collected from any or all students. Student building fees established and in effect on January 1, 1965, which are imposed uniformly upon all students, or upon all of a specified class of students in attendance at any unit of the *Montana university system,* shall not be increased without authorization by law, unless absolutely necessary to the extent to pay only principal or interest due on obligations for which such fees have been or shall be pledged, or to maintain reserves securing the payment of such obligations, in accordance with the indentures, resolutions, contracts or other instruments authorizing the issuance of such obligations; provided that at any unit of the *Montana university system* where the aggregate amount of student building fees in effect on January 1, 1965, was less than fifty dollars ($50) per student per academic year, such fees may be increased or additional student building fees may be established, to an aggregate amount not exceeding fifty dollars ($50) per student Housing facilities and food service. Student building fees—adjustment. Limitation.

HeinOnline -- 1967 vol. I 27 1967

Additional fees.

per academic year and provided further that additional student building fees may be established or existing student building fees may be increased at *the university of Montana,* at Missoula, to an aggregate amount not to exceed ninety dollars ($90) per student per academic year.

Admission and use charges.

This limitation shall not affect admission or use charges, which are made to individual students or others in proportion to their use or occupancy of particular facilities or services and shall not affect any student building fees or other charges which are made to nonresident students as defined in section 75-506, R.C.M. 1947.

Use of revenue.

(3) Hold the net income derived from the operation of such facilities and the charges, admissions and fees so collected and devote the revenues from these sources to debt service and reserves, repairs, replacements and betterments of the facilities or, so far as such revenues have not been previously obligated for these purposes, to the acquisition, erection, equipping, enlarging or improvement of additional facilities of the types described in this section.

Control and manage.

(4) Exercise full control and complete management of such facilities.

Rent facilities.

(5) Rent the facilities to other public or private persons, firms and corporations for such uses, at such times, for such periods and at such rates as in the regents' judgment will be consistent with the full use thereof for academic purposes and will add to the revenues available for capital costs and debt service."

Amending clause.

Section 2. Section 82-3316, R.C.M. 1947, is amended to read as follows:

Authority to construct buildings —limitations.

"82-3316. **Authority to construct buildings.**

(1) Except as provided in subsection (2) of this section, a building costing more than twenty-five thousand dollars ($25,000) may not be constructed without the consent of the legislative assembly. When a building costing more than twenty-five thousand dollars ($25,000) is to be financed in such a manner as not to require legislative appropriation of moneys, such consent *may* be in the form of a joint resolution.

Emergency repair or alteration.

(2) (a) The governor may authorize the emergency repair or alteration of a building.

HeinOnline -- 1967 vol. I 28 1967

(b) The regents of the *Montana university system* may authorize the construction of *revenue-producing* facilities *referred to in section 75-216, if they are to be financed wholly from the revenues therein described.* Construction of revenue-producing facilities.

(c) The regents of the *Montana university system,* with the consent of the governor, may authorize the construction of a building that is financed wholly with federal or private moneys, if the construction of such a building will not result in any new programs."

Section 3. This act is effective on its passage and approval. Effective immediately.

Approved: February 2, 1967.

CHAPTER 14

An Act Amending Section 43-902, R.C.M. 1947, to Provide for an Additional Fee for Mailing Each Complete Set of the Proceedings of the Legislature that Is Mailed; Specifying That the Fee Shall be Fifty Dollars ($50) If a Person Requests That the Proceedings Be Mailed First Class Mail and Eighty Dollars ($80) If a Person Requests That the Proceedings Be Mailed Airmail.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 43-902, R.C.M. 1947, is amended to read as follows: Amending clause.

"43-902. **Schedule of fees.** (a) Any person desiring to receive one complete set of the proceedings of the legislature shall pay to the secretary of state one hundred dollars ($100). Upon receipt of such money the secretary of state shall transmit the name of said person to the clerk of the house of representatives and the secretary of the senate, who shall supply such person with a complete set of the proceedings of the legislature. Any person desiring to receive more than one set of the proceedings of the legislature shall pay one hundred dollars ($100) for each additional set. Schedule of fees —complete set of proceedings.

(b) In addition to the fee for each complete set of the proceedings specified by subsection (a) of this section, any person who requests that a set of the proceedings be mailed shall pay an additional fee to the secretary of state for Additional fees for mailing— first class and airmail.

HeinOnline -- 1967 vol. I 29 1967

each complete set that is mailed of fifty dollars ($50) if a person requests that the proceedings be mailed first class mail and eighty dollars ($80) if a person requests that the proceedings be mailed airmail.

Bills, resolutions and memorials.

(c) Any person desiring to receive single copies of mimeographed bills, mimeographed resolutions, mimeographed memorials, printed bills, printed resolutions, printed memorials or amendments thereto shall pay to the clerk of the house of representatives or the secretary of the senate twenty-five cents (25¢) per single copy.

Status sheets.

(d) Any person desiring to receive single copies of status sheets or status of proceedings shall first pay to the clerk of the house of representatives or the secretary of the senate ten cents (10¢) per single copy.

Responsibility for funds collected.

(e) The chief clerk of the house of representatives and the secretary of the senate shall be responsible for accounting for all moneys received by them and shall transmit such funds received to the secretary of state before 5 p.m. each week day. Any moneys received by them during Saturday, Sunday or evening sessions of the legislative assembly shall be held by them in a safe place and transmitted to the secretary of state upon the next business day.

Accounting.

(f) The secretary of state shall account for all funds collected under this act and transmit such funds to the treasurer of the state of Montana, who shall credit them to the general fund."

Effective immediately.

Section 2. This act is effective on passage and approval.

Approved: February 2, 1967.

CHAPTER 15

An Act Setting Discount of Inheritance Tax if Paid Within Eighteen Months; Interest Charged and Collected if Tax Not Paid Within Eighteen Months From Its Accrual; Refunding of Inheritance Tax, and Providing for the Payment of an Estimated Inheritance Tax; and Amending Sections 91-4416 and 91-4418, R.C.M. 1947.

HeinOnline -- 1967 vol. I 30 1967

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That section 91-4416, Revised Codes of Montana, 1947, is amended to read as follows: Amending clause.

"91-4416. **Discount—interest.** If such tax is paid within eighteen *(18)* months from the accruing thereof, a discount of five percent *(5%)* shall be allowed and deducted therefrom. *The deduction of this discount of five percent (5%) shall be accomplished by paying within the eighteen (18) month period from the date that the tax accrues an amount equal to ninety-five percent (95%) of the total tax declared due by the person making payment.* If such tax is not paid within eighteen *(18)* months from the accruing thereof, interest shall be charged and collected thereon at the rate of ten percent *(10%)* per annum from the time the tax accrued; unless by reason of claims made upon the estate, necessary litigation or other unavoidable cause of delay, such tax shall not be determined and paid as herein provided, in which case interest at the rate of six percent *(6%)* shall be charged upon such tax from the accrual thereof until the cause of such delay is removed, after which ten percent *(10%)* shall be charged, provided that litigation to defeat the payment of the tax shall not be considered necessary litigation. In all cases when a bond shall be given under the provisions of section 91-4419, interest shall be charged at the rate of six percent *(6%)* after one *(1)* year from the date of death, until the date of payment thereof."

Discount if tax paid within 18 months.

Interest—10%.

Interest—6% if necessary delay.

Bond—interest 6%.

Section 2. That section 91-4418, Revised Codes of Montana, 1947, is amended to read as follows: Amending clause.

"91-4418. **Refunding of tax—when authorized—manner of refunding—advance payment of tax for relief from penalty and interest.** If any debt shall be proved against the estate of the decedent, after the payment of any legacy or distributive share thereof, from which any such tax has been deducted, or upon which it has been paid by the person entitled to such legacy or distributive share and such person is required by the order of the district court having jurisdiction of the tax so deducted or paid, to refund the amount of such debts or any part thereof, an equitable proportion thereof shall be repaid to such person by the executor, administrator or trustee, if the said tax has not been paid to the county treasurer or state treasurer, or by them, in the proper proportionate shares, if it has been so paid.

Refunding of tax —authorization —refunding.

HeinOnline -- 1967 vol. I 31 1967

Estimated tax—relief from tax and penalty.

Any person from whom such tax is or may be due may make an estimate of and pay the same to the clerk of court, who shall receipt therefor, at any time before the same is determined by the court, and shall thereupon be relieved from any interest or penalty upon the amount so paid in the same manner as if the tax were then determined. *In the event the person making payment has done so in accordance with the provisions of section 91-4416, pertaining to the allowance of a five percent (5%) discount, the person making payment shall be relieved from any interest or penalty and shall be allowed the five percent (5%) discount upon the amount which he so declared due as his inheritance tax liability. The tax may be declared to be due by the filing with the clerk of court of a statement of such declaration or by paying the amount estimated by the taxpayer to be due.* The money shall be paid to the clerk of the district court who must deposit same with the county treasurer for credit to the clerk of the district court's deposit or trust fund until the correct amount of the tax has been determined. As soon as the correct amount of inheritance tax has been determined, any excess so paid shall be refunded to the person so paying or entitled thereto by such clerk of court out of said trust fund, and the county treasurer shall receipt for the amount of the inheritance tax so determined by the court."

Statement of estimate.

Payment of estimate.

Excess inheritance tax paid—refund.

Effective immediately.

Section 3. That this act shall be in full force and effect from and after its passage and approval.

Approved: February 3, 1967.

CHAPTER 16

An Act Relating to the Disposition of Motor Vehicle Registration Fees Providing That in Determining the Division Ratio Between City and County Road Funds Only Those Miles of Road Actually Maintained by the City or County May Be Counted; Amending the Montana Highway Code of 1965, Section 7-204, Chapter 197, Laws of 1965.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 7-204, chapter 197, Laws of 1965, is amended to read as follows:

HeinOnline -- 1967 vol. I 32 1967

"Section 7-204. **Other counties—county road fund—city road fund.** (1) In every county which does not have a city and area populated as provided in section 7-202 of this part, the county treasurer shall divide the county motor vehicle fund between a 'city road fund' and a 'county road fund.'

Other counties.

City road fund and county road fund.

(2) The division shall be in the ratio determined by the board of county commissioners. The board shall determine the ratio by comparing the total number of miles of public streets and highways, *which are not either state or federal highways,* situated within the limits of incorporated cities and towns with the total number of miles of public streets and highways, *which are not either state or federal highways,* outside of such corporate limits*; providing that state or federal roads may be counted if they are by written agreement maintained by the city or county.*"

Division of funds—ratio.

State or federal roads counted —when.

Approved: February 3, 1967.

CHAPTER 17

An Act for the Codification and General Revision of the Laws Relating to Food Service Establishments, Markets and Manufacturers and the Laws Relating to Regulation of Refrigerated Lockers; Repealing Sections 69-2801 Through 69-2813, 69-2815, 69-2816, and 27-601 Through 27-610, R.C.M. 1947; and Providing an Effective Date.

It is the intent of the legislative assembly that all sections of this bill be codified in a single chapter of Title 27, Revised Codes of Montana, 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Regulation of establishments defined in section 2 of this act is required to prevent and eliminate conditions and practices which endanger public health.

Regulation of food service establishments, markets and manufacturers.

Section 2. As used in this act, unless the context clearly indicates otherwise:

(1) "Food" means any edible substance, beverage, or ingredient used, intended for use, or for sale for human consumption.

"Food."

HeinOnline -- 1967 vol. I 33 1967

"Food manufacturing establishment." (2) "Food manufacturing establishment" means a commercial establishment, and all buildings or structures in connection with, used to manufacture or prepare food for sale or human consumption, but does not include milk producers' facilities, milk pasteurization facilities, milk product manufacturing plants, slaughter houses or meat packing plants.

"Meat market." (3) "Meat market" means a commercial establishment, and all buildings or structures in connection with, used to process, store, or display meat or meat products for sale to the public or for human consumption.

"Food service establishment." (4) "Food service establishment" means any fixed or mobile restaurant, coffee shop, cafeteria, short-order cafe, luncheonette, grille, tearoom, sandwich shop, soda fountain, food store serving food or beverage samples, food or drink vending machine, tavern, bar, cocktail lounge, night club, industrial feeding establishment, catering kitchen, commissary, private organization routinely serving the public, or similar place where food or drink is prepared, served, or provided to the public with or without charge. The term does not include establishments, vendors, or vending machines which sell or serve only packaged non-perishable foods in their unbroken original containers, or a private organization serving food only to its members.

"Frozen food plant." (5) "Frozen food plant" means a place used to freeze, process, or store food including facilities used in conjunction with the frozen food plant and a place where individual compartments are offered to the public on a rental or other basis.

"Person." (6) "Person" means a person, partnership, corporation, association, cooperative group, or other entity engaged in operating, owning, or offering services of a food manufacturing establishment, meat market, food service establishment, or frozen food plant.

"Establishment." (7) "Establishment" means a food manufacturing establishment, meat market, food service establishment, frozen food plant or commercial food processor.

"State board." (8) "State board" means the state board of health.

"Department." (9) "Department" means the state department of health.

HeinOnline -- 1967 vol. I 34 1967

(10) "Executive Officer" means the director of the state department of health. "Executive officer."

Section 3. (1) A person operating an establishment shall procure an annual license from the department. Licenses.

(2) A separate license is required for each establishment, but if more than one (1) type of establishment is operated on the same premises and under the same management, only one (1) license is required. Separate licenses.

(3) Only one (1) license is required for a person owning and operating one (1) or more vending machines. Vending machines.

(4) Licenses expire on December 31 following the date of issue unless cancelled for cause. Expiration.

(5) Licenses are not transferable nor applicable to any premises other than that for which the license was issued. Not transferable.

(6) Establishments owned or operated by the state, or a political subdivision of the state, are exempt from licensure but must comply with the requirements of this chapter and rules adopted by the state board under this chapter. Establishments exempt.

(7) Licenses shall be granted as a matter of right unless grounds for denial or cancellation exist. Licensing a right.

Section 4. (1) An application for a license is made to the department on forms, and contains information, required by the department. Application.

(2) For each license issued, the department shall collect a fee of five dollars ($5). It shall deposit receipts in the state general fund. Fee.

Section 5. (1) The executive officer may deny or cancel a license if provisions of this act or rules adopted by the state board under this act are violated. Denial of license.

(2) A license for a multiple-type establishment authorized by section 3(2) of this act may be denied or cancelled in whole or in part as determined by the executive officer. License for multiple type establishment.

(3) If a license for multiple-type establishment is cancelled in part, the license shall be returned to the department for destruction and a new license shall be Cancellation in part.

HeinOnline -- 1967 vol. I 35 1967

issued for that part of the establishment which may still be operated.

Notification. Section 6. If an application is denied, or a license cancelled, the executive officer shall notify the applicant

Hearing. or licensee in writing of the ground for the action. If the applicant or licensee desires a hearing to show cause why the action should not be taken, he shall notify the executive officer before the sixth day after notice of the action has been received.

Plan for correction. Section 7. If a licensee is notified of a violation in writing by the department, he may submit a plan for correction of the condition before the eleventh day after

Approval. receipt of the notice. If approved by the department, compliance with the proposed plan of correction within the time prescribed by the department is a bar to prosecution for violation.

Judicial review. Section 8. Before the eleventh day following a hearing held under section 6 of this act, an applicant or licensee may appeal the decision of the state board to the district court.

Diseased persons. Section 9. A person who has a communicable disease may not work in any establishment, nor in the handling or processing of food.

Rules to protect public health. Section 10. To protect public health the state board may adopt rules relating to the operation of establishments defined in section 2 of this act, including coverage of food, personnel, food equipment and utensils, sanitary facilities and controls, construction and fixtures, and

Agreements. housekeeping. The state board may enter into cooperative agreements with other state agencies and political subdivisions of the state to carry out the provisions of this act.

Investigations and inspections. Section 11. (1) State and local health officers, sanitarians or other authorized persons shall make investigations and inspections of establishments and make reports to the department as required by rules adopted by the state board.

Free access. (2) State and local health officers, sanitarians, and other authorized persons shall have free access to establishments at all reasonable hours.

Food samples. (3) Persons licensed under section 3 of this act shall

HeinOnline -- 1967 vol. I 36 1967

furnish food samples for analysis as required by rules adopted by the state board.

Impure food—report.

(4) If a state or local health officer, sanitarian, or other authorized person finds food that is capable of causing foodborne illness, he shall issue a report in writing recommending that the food be withheld from sale to the public. A duplicate copy of the report, properly authenticated, is admissible in evidence in any action or proceeding where the condition of the food at the time of the inspection is material.

Liability for loss of food.

Section 12. The liability for loss of food by the owner or operator of a frozen food plant, which offers individual compartments to the public, is limited to negligence in operation or negligence of his employees.

Frozen food plant—liens—foreclosure.

Section 13. A person who operates a frozen food plant which offers individual compartments to the public has a lien on the property in his possession for rentals or other charges due. Liens may be foreclosed in the same way provided for chattel mortgages.

Operator of frozen food plant—effect of game laws.

Section 14. (1) A person who owns or operates a frozen food plant which offers individual compartments to the public, is not responsible for violation of game laws by persons who rent locker space from him. However, the owner or operator of an establishment as defined in this act shall not receive the carcass of a game animal, game bird or any quarter, half or whole carcass of beef or veal unless:

Requirements.

(a) it is properly stamped or tagged; or

(b) a written declaration is filed by the owner stating how it was obtained, date placed in the locker, and weight and type of meat.

Retention of declarations.

(2) A declaration made under subsection (1)(b) of this section shall be retained for one (1) year and shall be open to inspection by employees of the department.

Violation of act misdemeanor.

Penalties.

Section 15. A person who violates provisions of this act or rules adopted by the state board under this act, is guilty of a misdemeanor. Upon conviction, he shall be:

(1) fined not less than fifty dollars ($50) nor more than one hundred dollars ($100) for the first offense;

(2) fined not less than seventy-five dollars ($75) nor

HeinOnline -- 1967 vol. I 37 1967

more than two hundred dollars ($200) for the second offense;

(3) fined not less than two hundred dollars ($200) and imprisoned in the county jail for not more than ninety (90) days for the third and subsequent offenses.

Repealing clause.

Section 16. Sections 27-601 through 27-610, 69-2801 through 69-2813, 69-2815, and 69-2816, R.C.M. 1947, are repealed.

Effective date.

Section 17. This act shall be effective January 1, 1968.

Approved: February 3, 1967.

CHAPTER 18

An Act to Regulate Establishments Providing Transient Lodging Space and/or Accomodations; Defining Terms; Providing for Licensure and License Fee; and Providing Procedure for Cancellation or Denial of License; Empowering State Board of Health of Montana to Make and Enforce All Necessary Regulations Including Sanitary Standards for Such Establishments; Providing for Public Hearing on Rules and Regulations; and to Establish Cooperative Agreements With Other Montana Agencies; Providing for Inspection and Report of Inspection; Empowering State Board of Health of Montana to Issue Subpoenas; Prescribing Penalties; Providing for Fee Required by This Act to Supersede Other Fees for Same Purpose; Directing That Unconstitutionality of a Part of This Act Shall Not Affect or Impair the Remainder; and Repealing Sections 34-201, 34-202, 34-203, 34-204, 34-205, 34-206, 34-207, 34-208, 34-209, 34-210, 34-211, 34-212, 34-213, 34-214, 34-215, 34-216, 34-217, Revised Codes of Montana, 1947, as Amended or Supplemented, and Establishing Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Public welfare requires control of establishments providing transient lodging.

Section 1. It is hereby found and declared that the public welfare requires control and regulation of the operation of establishments providing transient lodging space and/or accomodations, as defined in section 2 hereof, and the control, inspection, and regulation of

HeinOnline -- 1967 vol. I 38 1967

persons engaged therein, in order to prevent or eliminate insanitary and unhealthful conditions and practices, which conditions and practices may endanger public health. It is further found and declared that the regulation of establishments providing transient lodging space and/or accomodations as above outlined is in the interest of social well-being and the health and safety of the state and all of its people.

Section 2. **Definitions.** Except where the context indicates a different meaning, terms used in this act shall be defined as follows:

"Person."

(a) "Person" includes any individual, partnership, corporation, association, county, municipality, cooperative group, or other entity engaged in the business of operating or owning or offering the services of a hotel, motel, or tourist home.

"Board."

(b) "Board" as used in this act shall mean the state board of health of the state of Montana.

"Executive officer."

(c) "Executive officer" shall mean the executive officer of the state department of health.

"Department."

(d) "Department" means the state department of health.

"Hotel or motel."

(e) "Hotel or motel" shall mean and include any building or structure kept, used, or maintained as or advertised as, or held out to the public to be a hotel, motel, inn, motor court, tourist court, public lodging house or place where sleeping accomodations are furnished for a fee to transient guests with or without meals.

"Tourist home."

(f) "Tourist home" means any establishment or premises where sleeping accomodations are furnished to transient guests for hire or rent on a daily or weekly rental basis in a private home when such accomodations are offered for hire or rent for the use of the traveling public.

Annual license required.

Section 3. **License required.** Each year, every person engaged in the business of conducting or operating a hotel, motel, or tourist home, as defined in section 2, shall procure a license issued by the department. A separate license shall be required for each establishment; however, where more than one of each type of establishment is operated on the same premises and under the

Separate license.

HeinOnline -- 1967 vol. I 39 1967

same management, only one license is required which shall enumerate on the certificate thereof the types of establishments licensed. Applications for such license shall be made in writing to the department on such forms and with such pertinent information as it may deem necessary. Such licenses shall be granted as a matter of right, unless conditions exist which are grounds for a cancellation or denial of a license as hereinafter set forth, and subject to the right of applicant for license to hearing and judicial review as hereinafter set forth.

Application.

Licensing a right.

Section 4. **Fee—term of license.**

Fee.

(a) There shall be paid to the department with each application for such license or for renewal of such license, an annual license fee of five dollars ($5). Fees collected by the department of health shall be transmitted to the state treasurer and placed to the credit of the general fund.

Term of license.

(b) Each license shall expire on December 31 following its date of issue, unless cancelled for cause. Renewal may be obtained annually by paying the required annual license fee. Such license shall not be transferable nor be applicable to any premises other than that for which originally issued.

Cancellation or denial of license —procedure.

Section 5. **Cancellation or denial of license—procedure.**

(a) The executive officer of the department may cancel any license if he finds, after proper investigation by a representative of the department, that the licensee has violated provisions of this act or any regulation effective under this act, and the licensee has failed or refused to remedy or correct the violation. Submission to the department of an acceptable plan of correction within ten (10) days after receipt from the executive officer of written notice of violation, and execution of an acceptable plan within the time prescribed in the written notice of approval thereof by said executive officer shall be a bar to prosecution for violation.

Plan of correction.

Statement of charges.

(b) No license shall be denied or cancelled by the executive officer of the department without delivery to the applicant or licensee of a written statement of the grounds therefor or the charge involved and an opportunity to answer at a hearing before the board to show

Hearing.

HeinOnline -- 1967 vol. I 40 1967

cause, if any, why the license should not be denied or cancelled. In such case, licensee must make written request to the executive officer of the department for a hearing within ten (10) days after notice of the grounds or charges has been received.

Multiple type establishment.

(c) When a multiple type establishment is licensed by the department, the denial or cancellation of said license may affect the entire establishment or only a portion of same as determined by the executive officer (a multiple type establishment includes two or more of the following: hotel, motel, or tourist home).

Cancellation of license to operate multiple type establishment.

(d) Upon cancellation of a license or the right to operate one or more of the multiple type establishments under the same license, the license certificate shall be returned to the executive officer for destruction or deletion of types of establishment as the executive officer may direct in his notice of cancellation.

Judicial review of order.

(e) Any order made by the executive officer after hearing, as provided herein, denying or cancelling any license may be reviewed by application for writ of review (certiorari) commenced in the district court of the county in which the licensed premises are located, within ten (10) days from the date of notice in writing of the executive officer's order of denial or cancelling such license has been served upon him.

County attorney to prosecute.

(f) Whenever the department shall furnish evidence to the county attorney of any county in this state, such county attorney shall prosecute any person, persons, firm, or corporation violating any provisions of this act, or any rules or regulations effective under this act.

Rules and regulations.

Section 6. **Rules and regulations—cooperative agreements.**

(a) The board is hereby empowered to prescribe and to enforce rules and regulations and to prescribe such procedures as are necessary to preserve the public health and safety. These rules and regulations shall relate to construction, furnishings, housekeeping, personnel, sanitary facilities and controls, water supply, sewerage and sewage disposal system, refuse collection and disposal, registration and supervision; provided further that no rule or regulation shall be effective until a public hearing has been held for review of said rules and regulations.

Rules and regulations—hearing to review.

HeinOnline -- 1967 vol. I 41 1967

Said public hearing is to be announced to all Montana licensed operators thirty (30) days in advance in writing and accompanied by copy of proposed rules and regulations.

Cooperative agreements to enforce.

(b) The department is hereby authorized to enter into cooperative agreements with any of the state agencies or political subdivisions for the purpose of carrying out the provisions of this act, or any part thereof.

Inspections.

Section 7. **Inspections.**

Regular and special inspections.

(a) The department, through its employees, and through local, county and district health officers, sanitarians, or other authorized representatives, shall make all necessary investigations and inspections for enforcement of this act. Each local, county or district health officer, sanitarian, or other authorized representative shall make regular inspections as the rules and regulations of the board may direct, and such special inspections as the department may from time to time direct, and he shall make such reports relative to conditions existing within his district at such times and in such manner as the board may direct.

Reports.

Free access.

(b) All persons authorized by this act or by regulations adopted under this act shall have free access at all reasonable hours to any of the establishments listed and defined in section 2, for the purpose of making inspections.

Subpoenas.

Section 8. **Authority of board to issue subpoenas.** In any proceeding under this act, the board may administer oaths and issue subpoenas, summon witnesses and take testimony of any person within the state of Montana.

Penalty for violation.

Section 9. **Penalty.** Any person violating any provision of this act or regulation made hereunder shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than fifty dollars ($50) nor more than one hundred dollars ($100) for the first offense, and not less than seventy-five dollars ($75) nor more than two hundred dollars ($200) for the second offense; and for the third and subsequent offenses, by a fine of not less than two hundred dollars ($200) and imprisonment in the county jail not to exceed ninety (90) days.

License fees.

Section 10. **License fee—supersedes other fees.** Payment of the license fee stipulated herein shall be accepted

HeinOnline -- 1967 vol. I 42 1967

in lieu of any and all existing state fees and charges for like purposes or intent which may be existent prior to the adoption of this act.

Section 11. **Separability clause.** If any clause, sentence, paragraph, section or part of this act, shall for any reason, be adjudged or decreed to be invalid by any court of competent jurisdiction, such judgment or decree shall not affect, impair nor invalidate the remainder of this act but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which said judgment or decree shall have been rendered. Separability clause.

Section 12. **Repeal.** All acts or parts of acts in conflict herewith are hereby repealed and specifically sections 34-201, 34-202, 34-203, 34-204, 34-205, 34-206, 34-207, 34-208, 34-209, 34-210, 34-211, 34-212, 34-213, 34-214, 34-215, 34-216, 34-217, Revised Codes of Montana, 1947. Repealing clause.

Section 13. **Effective date.** This act shall be effective January 1, 1968. Effective date.

Approved: February 6, 1967.

CHAPTER 19

An Act Creating a Planning and Economic Development Commission and a Department of State Government to Foster Planning, Growth and Diversification of Industry and Commerce; Abolishing the Planning Board; and Repealing Sections 89-301 Through 89-309, R.C.M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. This act shall be known and may be cited as the "Montana Planning and Economic Development Act of 1967." Montana Planning and Economic Development Act of 1967.

Section 2. **Declaration of necessity and public policy.** It is hereby declared to be a necessity and the public policy of the state of Montana to promote, stimulate and encourage the planning and development of the economy of the state in order to provide for the social and economic prosperity of its citizens. Such promotion and development of industry, commerce, agriculture, labor Declaration of necessity and public policy of state. Need for job opportunities.

HeinOnline -- 1967 vol. I 43 1967

and natural resources of the state requires that cognizance be taken of the continuing migration of people to the urban areas in search of job opportunities, and the fact that Montana is making a needed transition to a diversified economy. Community planning, greater diversification and attraction of additional industry, accelerated development of natural resources, expansion of existing industry, creation of new uses for agricultural products, greater emphasis on scientific research, development of new markets for the products of the state and the attainment of a proper balance in the over all economic base are all necessary in order to create additional employment opportunities, increase personal income and promote the general welfare of the people of this state. The planning and economic development commission and department hereinafter created shall be regarded as performing a governmental function in carrying out the provisions of this act.

Planning and development necessary.

Governmental function.

Section 3. **Planning and economic development commission.** There is hereby created a department of state government to be known as the "department of planning and economic development", of which the governing board shall be a commission designated as the "planning and development commission". The commission shall consist of seven (7) members, and the governor shall be an ex officio member thereof. The governor shall appoint a chairman of the commission as provided hereafter. The other five (5) members of the commission shall be appointed by the governor, shall represent various community and economic interests, and shall be residents and qualified electors of the state. On or before the effective date of this act, the governor shall appoint one (1) member whose term of office shall expire on May 1, 1968, one (1) member whose term of office shall expire on May 1, 1969, one (1) member whose term of office shall expire on May 1, 1970, one (1) member whose term of office shall expire on May 1, 1971, and one (1) member whose term of office shall expire on May 1, 1972. Except appointments to fill unexpired terms, each appointment thereafter shall be for a period of five (5) years. Members of the commission may be removed by the governor, and any vacancy caused by death, removal, disqualification or resignation shall be filled by appointment as hereinabove provided.

Commission created.

Members—appointment.

Term.

Removal.

HeinOnline -- 1967 vol. I 44 1967

Officers.

The commission shall select from its membership a vice-chairman, a secretary, and such other officers as it may determine to be necessary. The commission shall adopt such rules and regulations for the discharge of its duties as it may from time to time deem necessary, and each member except the governor and the chairman of the commission shall receive the sum of fifteen dollars ($15.00) per day for each day actually engaged in the performance of the duties of office, and shall be reimbursed for actual and necessary expenses incurred in the performance of the duties of office. The commission is empowered to exercise general supervision of the department, shall establish policy, and shall approve programs undertaken.

Rules and regulations—compensation and expenses.

Power of commission.

Chairman.

Section 4. The executive head of the department is the chairman of the commission, who shall be appointed by the governor, with the consent of the senate, and shall hold office at the pleasure of the governor. The chairman of the commission shall receive such compensation as is fixed by the legislature.

Functions.

Section 5. The department shall serve as the agency of state government in developing the full potential of the state's human and natural resources. To this end the department shall perform the following functions:

State planning

(A) State Planning.

Plan.

(1) Develop and adopt a comprehensive plan for the physical development of the state of Montana.

Studies.

(2) Make such economic and social studies as may be needed to accomplish the purposes of this act.

Coordination.

(3) Coordinate and assist regional development groups in the comprehensive development of the resources of the region to the betterment of Montana.

Assemble information.

(4) Assemble and correlate information for the purpose of making long-range plans for economic and resource development of the state and its subdivisions relating to all of the factors which influence the development of new and existing economic enterprises, including taxes and the regulation of industry.

Advise and assist.

(5) Provide advice and assistance to Montana business and labor in the field of economic development and bring to the attention of the governor those significant

HeinOnline -- 1967 vol. I 45 1967

problems adversely affecting economic development which may be relieved by state action.

Recommend. (6) Locate and maintain information on prime sites for industrial, agricultural, mineral, forestry, commercial, and residential development and on sites of historical importance, and make recommendations for protecting and preserving such sites.

Administer grants. (7) Apply for, accept and administer grants from the federal government or other public or private sources to accomplish the objectives of this act, and enter into contracts, including agreements with adjoining states, with respect to planning involving adjoining states.

Consulting. (8) Serve as the consultative, coordinating, and advisory agency for state departments, officials, and agencies in state planning and for encouraging and aiding local planning bodies, either directly or by securing planning assistance, consulting services and technical aid, which may include land use, demographic and economic studies and surveys, and comprehensive plans.

Community development. (B) Community Development.

Technical assistance. (1) Cooperate with and provide technical assistance to county, municipal, state and regional planning commissions, zoning commissions, parks or recreation boards, community development groups, community action agencies, and similar agencies created for the purposes of aiding and encouraging orderly productive and coordinated development of the communities of the state.

Assist governor. (2) Assist the governor in coordinating the activities of state agencies which have an impact on solution of community development problems and implementation of community plans.

Provide information. (3) Serve as a clearing house for information, data, and other materials which may be helpful or necessary to local governments to discharge their responsibilities and provide information on available federal, state financial and technical assistance.

Continuing studies. (4) Carry out continuing studies and analyses of the problems faced by communities within the state and develop such recommendations for administrative or legislative action as appear necessary. In carrying out such studies and analyses, the department shall pay particular

HeinOnline -- 1967 vol. I 46 1967

attention to the problems of metropolitan, suburban, and other areas in which economic and population factors are rapidly changing.

(C) Recreational Development. Recreational development.

(1) Exercise state responsibility for that part of recreational planning and development which is directly related to private investment in recreational facilities. State responsibility.

(2) Assemble and correlate information which may influence the development of recreational enterprises and disseminates the same to persons, firms or corporations with bona fide interest in constructing or maintaining recreational facilities open to the public. Assemble information.

(D) Economic Development. Economic development.

(1) Provide coordinating services to aid state and local groups in the promotion of new economic enterprises and conduct publicity and promotional activities in connection therewith. Coordination.

(2) Collect and disseminate information regarding the advantages of developing agricultural, recreational, commercial and industrial enterprises within this state. Collect information.

(3) Serve as the state's official liaison between persons interested in locating new economic enterprises in Montana and state and local groups seeking new enterprises. Liaison.

(4) Aid communities interested in obtaining new business or expanding existing business. Aid communities.

(5) Study and promote means of expanding markets for Montana products. Study.

(6) Encourage and coordinate public and private agencies or bodies in publicizing the facilities and attractions of the state. Coordinate.

Section 6. The department may contract for consulting services for the purpose of undertaking and conducting planning and study projects. It may make agreements with other state agencies in order to effectuate its own research programs. It may initiate research, but when possible shall make full use of and strengthen the research resources of other state agencies, including the university system. Other state agencies are directed to Contract for consulting services. Research.

HeinOnline -- 1967 vol. I 47 1967

provide the department with such information as will assist it in carrying out the purposes of this act.

Cooperate with other agencies.

The department shall assist and cooperate with other state agencies and officials, with official organizations of elected officials in the state, with local governments and officials, and with federal agencies and officials, in carrying out the functions and duties of the department.

Consultation —hearings.

It may consult with private groups and individuals, and if the department deems it desirable, hold public hearings to obtain information for the purposes of carrying out this act.

Administrators— appointment of personnel.

Section 7. Each division or section of the department may be under the management of an administrator, responsible to the chairman of the commission, and such administrators and all subordinate personnel of the department shall be appointed by the chairman of the commission, with the consent of the commission.

Annual report.

Section 8. The commission shall prepare an annual report of its activities for the governor and the legislature and may issue and disseminate special reports concerning any phase of its work.

State planning board abolished.

Section 9. The state planning board is abolished. All records, property and moneys of the state planning board are transferred to the planning and economic development commission.

Repealing clause.

Section 10. Sections 89-301, 89-302, 89-303, 89-304, 89-305, 89-306, 89-307, 89-308, and 89-309, R.C.M. 1947 are repealed.

Approved: February 6, 1967.

CHAPTER 20

An Act to Control Weather Modification Activities and Designating the State Water Conservation Board as the Agency to Administer This Act.

Be it enacted by the Legislative Assembly of the State of Montana:

"Weather modification and control."

Section 1. As used in this act unless the context clearly indicates otherwise "weather modification and control" means changing or controlling, or attempting to

HeinOnline -- 1967 vol. I 48 1967

change or control, by artificial methods, the natural development of any or all atmospheric cloud forms or precipitation forms which occur in the troposphere.

Water conservation board to administer—compensation—expenses.

Section 2. The state water conservation board, hereafter referred to as the "board," is the state agency responsible for administration of this act. Members of the board shall receive no compensation for the performance of their duties under the provisions of this act but shall be reimbursed for expenses necessarily incurred.

Powers of board.

Section 3. In addition to any other acts authorized by law the board may:

Advisory committees.

(1) establish advisory committees to advise with and make recommendations to the board concerning legislation, policies, administration, research, and other matters;

Materials.

(2) acquire materials, equipment and facilities as are necessary to perform its duties under this act;

Administer funds.

(3) receive any funds which may be offered or become available from federal grants or appropriations, private gifts, donations, bequests, or any other source and unless their use is restricted, may expend the funds for the administration of this act.

Licensing.

Section 4. No person shall engage in activities for weather modification and control except under, and in accordance with, a license and a permit issued by the board authorizing such activities.

Applications—exemptions.

Section 5. The board shall review all applications for weather modification activity, and may provide by rule for exempting from the license and permit fees:

(1) research, development, and experiments by state and federal agencies, institutions of higher learning and bona fide nonprofit research organizations and their agents;

(2) laboratory research and experiments;

(3) activities of an emergency character for protection against fire, frost, sleet, or fog; and

(4) activities normally engaged in for purposes other than those of inducing, increasing, decreasing, or preventing precipitation or hail.

HeinOnline -- 1967 vol. I 49 1967

Licenses—criteria for issuance.

Section 6. The license to engage in activities for weather modification and control shall be issued, in accordance with procedures and subject to conditions the board may by rule establish to effectuate the provisions of this act, to applicants who demonstrate competence in the field of meteorology to the satisfaction of the board. If the applicant is an organization, these requirements must be met by the individual who will be in charge of the operation for the applicant.

Term of license.

Section 7. The license shall be issued for a period to expire at the end of the calendar year in which it is issued and, if the licensee possesses the qualifications necessary for the issuance of a new license, shall upon application be renewed at the expiration of the period.

License fee.

Section 8. A license shall be issued or renewed only upon the payment to the board of one hundred dollars ($100) for the license or renewal.

Permits—conditions.

Section 9. The permits shall be issued in accordance with procedures and subject to conditions the board may by rule establish to effectuate the provisions of this act, only:

(1) if the applicant is licensed pursuant to this act;

(2) if sufficient notice of intention is published and proof of publication is filed as required in section 13 of this act;

(3) if an applicant furnishes proof of financial responsibility in an amount to be determined by the board as required in section 14 of this act;

(4) if the fee for the permit is paid as required in section 15 of this act;

(5) if the weather modification and control activities to be conducted are determined by the board to be for the general welfare and the public good;

(6) if the board has held an open public hearing in the area to be affected as to such issuance.

Separate permits —"operation."

Section 10. Separate permits shall be issued for each operation. "Operation" means the performance of weather modification and control activities entered into for the purpose of producing or attempting to produce, a certain modifying effect within one (1) geographical

HeinOnline -- 1967 vol. I 50 1967

area over one continuing time interval not exceeding one (1) year.

Notice of intention.

Section 11. Prior to undertaking any weather modification and control activities, the applicant for a permit shall file with the board, and also have published, a notice of intention. If a permit is issued, the holder of the permit shall confine his activities to the time and area limits set forth in the notice of intention, unless modified by the board. His activities shall conform to any conditions imposed by the board. The permit may not be sold or transferred.

Permit not transferable.

Notice of intention to state.

Section 12. The notice of intention shall set forth at least the following:

(1) the name and address of the applicant;

(2) the nature, purpose, and objective of the intended operation and the person or organization on whose behalf it is to be conducted;

(3) the area in which, and the approximate time during which, the operation will be conducted;

(4) the area which is intended to be affected by the operation;

(5) the materials and methods to be used in conducting the operation.

Publication of notice of intention.

Section 13. (1) The applicant shall have notice of intention, or that portion thereof including the items specified in section 12 of this act, published at least once a week for two (2) consecutive weeks in a newspaper having a general circulation and published within any county in which the operation is to be conducted and in which the affected area is located, or, if the operation is to be conducted in more than one (1) county or if the affected area is located in more than one (1) county or is located in a county other than the one in which the operation is to be conducted, then in newspapers having a general circulation and published within each of the counties.

More than one county.

Proof of publication.

(2) Proof of publication, made in the manner provided by law, shall be filed by the applicant with the board sooner than the sixteenth day after the date of the last publication of the notice.

HeinOnline -- 1967 vol. I 51 1967

Proof of financial responsibility.

Section 14. Proof of financial responsibility may be furnished by an applicant by his showing, to the satisfaction of the board, ability to respond in damages for liability which might reasonably be attached to, or result from, his weather modification and control activities.

Permit fees—rate—payment schedule.

Section 15. The fee to be paid by each applicant for a permit shall be equivalent to one and one-half percent (1½%) of the estimated cost of such operation, the estimated cost to be computed by the board from the evidence available to it. The fee is due and payable to the board as of the date of issuance of the permit; however, if the applicant is able to give satisfactory security for the payment of the balance he may be permitted to commence the operation, and a permit may be issued therefor, upon the payment of not less than fifty percent (50%) of the fee. The balance due shall be paid within three (3) months from the date of termination of the operation as prescribed in the permit.

Special account.

Section 16. There is established an account in the agency fund to be known as the "weather modification board account." All license and permit fees paid to the board shall be deposited in this account and used to pay the expenses of administering this act.

Record of operations—to show.

Section 17. Every licensee shall keep and maintain a record of all operations conducted by him under his license and each permit, showing:

(1) the method employed;

(2) type of equipment used;

(3) kinds and amounts of material used;

(4) times and places of operation of the equipment;

(5) names and addresses of all individuals participating or assisting in the operation;

(6) any other general information as the board may require.

Written reports of operations.

Section 18. The board shall require written reports, in a manner as it provides, of each operation for which a permit is issued. The board shall also require reports from any organization that is exempt from license and permit requirements as provided in section 5 of this act.

HeinOnline -- 1967 vol. I 52 1967

Public records.

Section 19. The records and reports in the custody of the board shall be open for public examination.

Notice and hearing on licenses.

Section 20. After notice to the licensee and a reasonable opportunity for a hearing, the board may modify, suspend, revoke, or refuse to renew, any license or permit issued if it appears that the licensee no longer possesses the qualifications necessary or if it appears that the licensee has violated any of the provisions of this act; or in the case of a modification, that it is necessary for the protection of the health or the property of any person.

State exempt from liability.

Section 21. Nothing in this act shall be construed to impose or accept any liability or responsibility on the part of the state, the board, or any state officials or employees for any weather modification and control activities of any private person or group.

Violation is misdemeanor—each day separate offense.

Section 22. A person violating any provision of this act is guilty of a misdemeanor, and a continuing violation is punishable as a separate offense for each day during which it occurs.

Severability clause.

Section 23. It is the intent of the legislative assembly that if a part of this act is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this act is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Approved: February 7, 1967.

CHAPTER 21

An Act Amending Section 67-2211, R.C.M. 1947, Requiring Reports of Abandoned Property Other Than Reports From Banking or Financial Organizations, Cooperatives and Life Insurance Corporations, to Be Submitted to the State Treasurer Every Three (3) Years; Providing That the State Treasurer May Request Reports Each Year, and Requiring the State Treasurer to Furnish Forms for This Report.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 67-2211, R.C.M. 1947, is amended to read as follows:

HeinOnline -- 1967 vol. I 53 1967

Report of abandoned property.

"67-2211. **Report of abandoned property.** (a) Every person holding funds or other property, tangible or intangible, presumed abandoned under this act shall report to the state treasurer with respect to the property as hereinafter provided.

Report to be verified— to include.

(b) The report shall be verified and shall include:

(1) The name, if known, and last known address, if any, of each person appearing from the records of the holder to be the owner of any property of value of three dollars ($3) or more presumed abandoned under this act;

Life insurance.

(2) In case of unclaimed funds of life insurance corporations, the full name of the insured or annuitant and his last known address according to the life insurance corporation's records;

Description of property.

(3) The nature and identifying number, if any, or description of the property and the amount appearing from the records to be due, except that items of value under three dollars ($3) each may be reported in aggregate;

Date payable.

(4) The date when the property became payable, demandable, or returnable, and the date of the last transaction with the owner with respect to the property; and

Other information.

(5) Other information which the state treasurer prescribes by rule as necessary for the administration of this act.

All prior known name and addresses to be reported.

(c) If the person holding property presumed abandoned is a successor to other persons who previously held the property for the owner, or if the holder has changed his name while holding the property, he shall file with his report all prior known names and addresses of each holder of the property.

Filing dates.

(d) The report shall be filed before November 1 *every three (3) years* as of June 30 next preceding, but the *reports* of life insurance corporations, *banking and financial organizations and cooperatives,* shall be filed before May 1 of each year as of December 31 next preceding. *The state treasurer may request that any other reports be filed each year.* The state treasurer may postpone the reporting date upon written request by any person re-

Other reports and filing dates.

HeinOnline -- 1967 vol. I 54 1967

quired to file a report. *The state treasurer shall furnish forms for this report.*

Communication by holder with owner.

(e) If the holder of property presumed abandoned under this act knows the whereabouts of the owner and if the owner's claim has not been barred by the statute of limitations, the holder shall, before filing the annual report, communicate with the owner and take necessary steps to prevent abandonment from being presumed. The holder shall exercise due diligence to ascertain the whereabouts of the owner.

Verification.

(f) Verification, if made by a partnership, shall be executed by a partner; if made by an unincorporated association or private corporation, by an officer; and if made by a public corporation, by its chief fiscal officer.

Initial report to contain.

(g) The initial report filed under this act shall include all items of property that would have been presumed abandoned if this act had been in effect during the ten-year period preceding its effective date."

Approved: February 7, 1967.

CHAPTER 22

An Act Authorizing a Person to Provide for the Disposition of All or Any Part of His Body Upon His Death.

Be it enacted by the Legislative Assembly of the State of Montana:

Disposition of body—purpose.

Section 1. A person eighteen (18) years of age or older may provide for the disposition of all or any part of his body upon death for:

(1) purposes of education or research; or

(2) any therapeutic use.

Authorization—requirements.

Section 2. The authorization for the disposition of all or any part of a body shall be by will or acknowledged written instrument.

Authorization by will without probate.

Section 3. If the authorization is by will, the instructions shall be carried out, even though the will cannot be admitted for probate until a later date.

No civil liability.

Section 4. There shall be no civil liability for reliance

HeinOnline -- 1967 vol. I 55 1967

on the terms of a written authorization given in accordance with this act.

Approved: February 10, 1967.

CHAPTER 23

An Act to Amend Section 31-135, R.C.M. 1947, Relating to Fees for Drivers' Licenses, the Disposition Thereof, and Providing That Five Percent (5%) of Such Fees Shall Be Retained by the Counties.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 31-135, R.C.M. 1947, is amended to read as follows:

Operator and chauffeur licenses —agents for sale.

"31-135. **Licenses issued to operators and chauffeurs.**

(a) The highway patrol board shall have authority to appoint county treasurers and other qualified officers to act as its agent or agents for the sale of drivers' licenses, and shall make necessary rules and regulations governing such sales. The board, upon payment of four dollars ($4), *(of which sum five percent (5%) shall be retained by the county treasurers for use of the county general fund)* shall issue to every applicant qualifying therefor, an operator's or chauffeur's license as applied for, which license shall be purchased biennially on or before the operator's or chauffeur's birthday, and shall expire on the anniversary of the date of birth of the operator or chauffeur, two (2) years or less after the date of issue, and shall contain a photograph of such licensee in such size and form as may be prescribed by the highway patrol board, a distinguishing number issued to the licensee, the full name, date of birth, resident address, and a brief description of the licensee and either a facsimile of the signature of the licensee or a space upon which he shall write his signature in pen and ink, immediately upon receipt of the license. No license shall be valid until it has been so signed by the licensee.

Fees—5% retention by county.

Expiration.

License to contain.

Testing of applicant.

(b) The board shall, when any person applies for renewal of an operator's or chauffeur's license, test the applicant's eyesight, and may also, in the board's discretion, have such applicant demonstrate his physical ability

HeinOnline -- 1967 vol. I 56 1967

to operate and to exercise ordinary and reasonable care in the operation of a motor vehicle. This examination shall not be required of any applicant who has successfully completed such an examination within the preceding five *(5)* year period.

Examination not required—when.

(c) Whenever the board issues an original license to a person under the age of twenty-one (21) years, such license shall be designated and clearly marked as a 'provisional license.' Any license so designated and marked may be suspended by the board for a period of not more than twelve (12) months, when its record discloses that the licensee, subsequent to the issuance of such license, has been guilty of careless or negligent driving. Upon renewal as applicable to operators' licenses, the board may for any reasonable cause, as shown by its records, designate the renewal of the license as provisional, otherwise, a license in usual form shall be issued subject to other provisions of the laws of Montana.

Provisional licenses.

Suspension.

Renewal.

(d) It shall be unlawful for any person to have in his possession or under his control, more than one (1) Montana operator's or chauffeur's license at any one time."

Possession of more than one license unlawful.

Approved: February 10, 1967.

CHAPTER 24

An Act to Increase the Maximum Salary of the Secretary of the Montana Grass Conservation Commission From Five Hundred Dollars ($500) Per Month to Not More Than Ten Thousand Dollars ($10,000) Per Year; Amending Section 46-2305, R.C.M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 46-2305, R.C.M. 1947, is amended to read as follows:

Amending clause.

"46-2305. **Secretary—compensation.** The commission shall select and appoint a secretary at a salary of not to exceed *ten thousand dollars ($10,000) per year.* The secretary shall be the executive officer of the commission and shall be controlled and directed by the rules and regulations established by the commission from time to time and applicable to the duties of his office. The commission shall fix the salary of the secretary."

Compensation of secretary.

Approved: February 10, 1967.

HeinOnline -- 1967 vol. I 57 1967

CHAPTER 25

An Act Making it a Criminal Offense to Use a Telephone Either to Terrify, Intimidate, Threaten, Harass, Annoy or Offend Another by the Use of Obscene, Lewd or Profane Language or the Suggestion of a Lewd or Lascivious Act or by Threat of Injury to Person or Property, or to Attempt to Extort Money or Property From Another, or to Disturb Another by Repeated Anonymous Calls, and Providing Penalties Therefor; Providing for Prosecution of Such Offenses at Either the Place Where the Telephone Call or Calls Originated or where They Were Received; and Repealing All Acts and Parts of Acts in Conflict Therewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Misuse of telephone unlawful.

Section 1. (1) It is unlawful for any person, with intent to terrify, intimidate, threaten, harass, annoy or offend, to telephone another and use any obscene, lewd or profane language or suggest any lewd or lascivious act, or threaten to inflict injury or physical harm to the person or property of any person. It is also unlawful to use a telephone to attempt to extort money or other thing of value from any person, or to disturb by repeated anonymous telephone calls the peace, quiet or right of privacy of any person at the place where the telephone call or calls were received.

Improper language evidence of intent.

(2) The use of obscene, lewd or profane language or the making of a threat or lewd or lascivious suggestion shall be prima facie evidence of intent to terrify, intimidate, threaten, harass, annoy or offend.

Jurisdiction of offense.

(3) Any offense committed by use of a telephone in the manner set forth in this section shall be deemed to have been committed at either the place where the telephone call or calls originated or at the place where the telephone call or calls were received, and when an offense under this section is committed by making a telephone call or calls in one county which is or are received in another county, the jurisdiction is in either county.

Penalty.

(4) Any violation of this section shall be punishable by a fine not exceeding five hundred dollars ($500), or by imprisonment in the county jail not exceeding six (6) months, or by imprisonment in the state prison not exceeding five (5) years.

HeinOnline -- 1967 vol. I 58 1967

Making false statements with intent to annoy is misdemeanor —jurisdiction.

Section 2. Every person who telephones another and knowingly makes any false statements concerning injury, death, disfigurement, indecent conduct or criminal conduct of the person telephoned or any member of his family with intent to terrify, intimidate, harass or annoy the called person is guilty of a misdemeanor. Any offense by use of a telephone as herein set out may be deemed to have been committed at the place at which the telephone call or calls were made or at the place where the telephone call or calls were received.

Repealing clause.

Section 3. All acts and parts of acts in conflict herewith are hereby repealed.

Approved: February 10, 1967.

CHAPTER 26

An Act to Amend Section 26-215, R.C.M. 1947, to Require Nonresident Minors to Have a Fishing License or Be Accompanied by a Licensed Adult and Provide for a Single Limit of Fish Per License When Fishing in Combination.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 26-215, R.C.M. 1947, is amended to read as follows:

Exemption from general provisions —specific exemptions.

"26-215. **Exemption from general provisions.** (a) The provisions of the fish and game laws shall not apply to persons pursuing, hunting, capturing, shooting, killing, taking or trapping, or attempting to kill, take or trap predatory animals, prairie dogs, ground squirrels, jackrabbits, gophers, or English sparrows, crows, hawks, fish ducks, blue heron, snow owls, great grey owls, great horned owls, blackbirds, kingfishers, magpies, jays and eagles, which may be pursued, hunted, taken, killed, shot, trapped, possessed or transported at any time except as specifically set forth herein and enforced pursuant to section 26-324, R.C.M. 1947.

Jackrabbits on private land with artificial light.

(b) It shall be illegal to hunt jackrabbits on private land with artificial light unless written permission of the landowner, lessee or agent is obtained.

HeinOnline -- 1967 vol. I 59 1967

Minors under 15 except nonresidents—adult to accompany—limits.

(c) Minors under fifteen (15) years of age may fish for and take fish, during the open season without a license; *provided, however, that no nonresident person, under the age of fifteen (15) years, shall fish in or on any Montana waters without first having obtained a class B, B-2 or B-3 fishing license, unless such nonresident person under the age of fifteen (15) years shall be in the company of an adult in possession of a valid Montana fishing license, provided that the limit of fish for such nonresident person and the accompanying adult combined shall not exceed the limit for one adult as established by law or by regulation of the commission.*"

Approved: February 10, 1967.

CHAPTER 27

An Act to Amend Section 40-2820, R.C.M. 1947, Relating to Filing of Annual Statements of Insurance Companies; Adding Penalties for Any Director, Officer or Agent or Employee Making, Concurring in or Publishing an Annual Statement Containing False Statements.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 40-2820, R.C.M. 1947, be amended to read as follows:

Annual statement of insurer—to contain.

"40-2820. **Annual statement.** (1) Each authorized insurer shall annually on or before March 1 file with the commissioner a full and true statement of its financial condition, transactions, and affairs as of the December 31 preceding. The statement shall be in such general form and context as is required or not disapproved by the commissioner, and as is in current use for similar reports to states in general with respect to the type of insurer and kinds of insurance to be reported upon, and as supplemented for additional information required by the commissioner. The statement shall be verified by the oath of the insurer's president or vice-president, and secretary, or, if a reciprocal insurer, by the oath of the attorney-in-fact or its like officers if a corporation. The commissioner may, in his discretion, waive any such verification under oath.

Verification.

Waiver.

Alien insurers.

(2) The statement of an alien insurer shall relate only

HeinOnline -- 1967 vol. I 60 1967

to its transactions and affairs in the United States unless the commissioner requires otherwise. If the commissioner requires a statement as to an alien insurer's affairs throughout the world, the insurer shall file such statement with the commissioner as soon as reasonably possible. The statement shall be verified by the insurer's United States manager or other officer duly authorized.

Revocation and suspension.

(3) The commissioner may refuse to accept fee for continuance of the insurer's certificate of authority, as provided in section 40-2813, or may in his discretion suspend or revoke the certificate of authority of any insurer failing to file its annual statement when due.

Penalty for false statement.

(4) *Any director, officer or agent or employee of any company who subscribes to, makes, or concurs in making, or publishing, any annual statement, or any other statement required by law, knowing the same to contain any material statement which is false shall be punished by a fine of not more than one thousand dollars ($1,000).*

Fee.

(5) At time of filing, the insurer shall pay to the commissioner the fee for filing its statement as prescribed in section 40-2726."

Approved: February 10, 1967.

CHAPTER 28

An Act to Amend Section 40-2716, R.C.M. 1947, Relating to Examination Reports of Insurance Companies; Adding Penalties for Destruction of Books or Records by Directors, Officers, Agents or Employees of Insurance Companies.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 40-2716, R.C.M. 1947, be amended to read as follows:

Examination reports.

"40-2716. **Examination reports.** (1) The commissioner or his examiner shall make a full and true report of each examination, verified by his oath.

Report to show.

(2) The report shall comprise only facts appearing from the books, papers, records, or documents of the person being examined, or ascertained from the testi-

HeinOnline -- 1967 vol. I 61 1967

mony, under oath, of individuals concerning its affairs, and conclusions and recommendations as warranted by such facts.

Penalty for destroying records.

(3) *Any director, officer, agent or employee of any company who destroys any books, records or documents required to be kept by law for the purpose of hindering any examination in violation of the requirements of this section shall be punished by a fine of not more than one thousand dollars ($1,000), and, after a hearing thereon for that purpose, the commissioner may revoke the certificate of authority of such company.*

Copy of report furnished.

(4) The commissioner shall furnish a copy of the proposed report to the person examined not less than twenty (20) days prior to filing the same in his office. If such person so requests in writing within such twenty-day period, the commissioner shall grant a hearing with respect to the report, and shall not so file the report until after the hearing and after such modifications, if any, have been made therein as the commissioner deems proper.

Verified report evidence of facts stated.

(5) The report when so verified and filed shall be presumptive evidence, in any action or proceeding brought by the commissioner against the person examined, or against its officers or agents, of the facts stated therein. The commissioner and his examiners may at any time testify and offer other proper evidence as to information secured during the course of an examination, whether or not a written report of the examination has at that time been either made, served, or filed in the commissioner's office.

Withholding of report from public.

(6) The commissioner may withhold from public inspection any examination or investigation report for so long as he deems such withholding to be necessary for the protection of the person examined against unwarranted injury or to be in the public interest.

Publishing report.

(7) If he deems such to be in the public interest the commissioner may publish any such examination report or a summary thereof in one or more newspapers in the state.''

Approved: February 10, 1967.

HeinOnline -- 1967 vol. I 62 1967

CHAPTER 29

An Act to Amend Section 40-3506, R.C.M. 1947, Relating to False Financial Statements; Adding Provisions for a Penalty and Confinement for Aiding and Abetting the Filing of False Financial Statements of Insurance Companies.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That section 40-3506, R.C.M. 1947, be amended to read as follows: Amending clause.

"40-3506. **False financial statements.** (1) No person shall file with any supervisory or other public official, or make, publish, disseminate, circulate or deliver to any person, or place before the public, or cause directly or indirectly, to be made, published, disseminated, circulated, delivered to any person, or placed before the public, any false statement of financial condition of an insurer with intent to deceive. False financial statements.

(2) No person shall make any false entry in any book, report or statement of any insurer with intent to deceive any agent or examiner lawfully appointed to examine into its condition or into any of its affairs, or any public official to whom such insurer is required by law to report, or who has authority by law to examine into its condition or into any of its affairs, or, with like intent, willfully omit to make a true entry of any material fact pertaining to the business of such insurer in any book, report or statement of such insurer, *and any person who aids or abets in any such violation of this section shall be punishable, upon conviction, by a fine of one thousand dollars ($1,000) or by imprisonment in the county jail for six (6) months, or both such fine and imprisonment.*" False entry in records. Penalty for violation.

Approved: February 10, 1967.

CHAPTER 30

An Act Amending Sections 53-418, 53-422, 53-432, and 53-438, R.C.M., 1947, Relating to Motor Vehicle Liability Insurance Increasing Minimum Proof of Financial Responsibility From Five Thousand Dollars ($5,000) Because of Bodily Injury to or Death of One

HeinOnline -- 1967 vol. I 63 1967

Person in Any One Accident to Ten Thousand Dollars ($10,000); Increasing From Ten Thousand Dollars ($10,000) Because of Bodily Injury to or Death of Two or More Persons in Any One Accident to Twenty Thousand Dollars ($20,000); Increasing From One Thousand Dollars ($1,000) Because of Injury to or Destruction of Property of Others in Any One Accident to Five Thousand Dollars ($5,000).

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause. Section 1. Section 53-418, R.C.M., 1947, is amended to read as follows:

Definitions. "53-418. **Definitions.** The following words and phrases, when used in this act shall, for the purposes of this act, have the meanings respectively ascribed to them in this section, except in those instances where the context clearly indicates a different meaning:

"Supervisor." 1. "Supervisor"—The highway patrol supervisor and his executive assistant.

"Board." 2. "Board"—The Montana highway patrol board.

"Registrar." 3. "Registrar"—The registrar of motor vehicles of this state.

"Judgment." 4. "Judgment"—Any judgment that shall have become final by expiration without appeal of the time within which an appeal might have been perfected, or by final affirmation on appeal, rendered by a court of competent jurisdiction of any state or of the United States, upon a cause of action arising out of the ownership, maintenance or use of any motor vehicle, for damages, including damages for care and loss of services, because of bodily injury to or death of any person, or for damages because of injury to or destruction of property, including the loss of use thereof, or upon a cause of action on an agreement of settlement for such damages.

"License." 5. "License"—Any license, temporary instruction permit or temporary license issued under the laws of this state pertaining to the licensing of persons to operate motor vehicles.

"Motor vehicle." 6. "Motor vehicle"—Every self-propelled vehicle which is designed for use upon a highway, including trailers and semitrailers designed for use with such

HeinOnline -- 1967 vol. I 64 1967

vehicles (except traction engines, road rollers, farm tractors, tractor cranes, power shovels, and well driller) and every vehicle which is propelled by electric power obtained from overhead wires but not operated upon rails.

"Nonresident."

7. "Nonresident"—Every person who is not a resident of this state.

"Nonresident's operating privilege."

8. "Nonresident's operating privilege"—The privilege conferred upon a nonresident by the laws of this state pertaining to the operation by him of a motor vehicle, or the use of a motor vehicle owned by him, in this state.

"Operator."

9. "Operator"—Every person who is in actual physical control of a motor vehicle.

"Owner."

10. "Owner"—A person who holds the legal title of a motor vehicle, or in the event a motor vehicle is the subject of an agreement for the conditional sale or lease thereof, with the right of purchase upon performance of the conditions stated in the agreement, and with an immediate right of possession vested in the conditional vendee or lessee, or in the event a mortgagor of a vehicle is entitled to possession, then such conditional vendee or lessee or mortgagor shall be deemed the owner for the purposes of this act.

"Person."

11. "Person"—Every natural person, firm, copartnership, association or corporation.

"Proof of financial responsibility."

12. "Proof of financial responsibility"—Proof of ability to respond in damages for liability, on account of accidents occurring subsequent to the effective date of said proof, arising out of the ownership, maintenance or use of a motor vehicle, in the amount of *ten thousand dollars ($10,000)* because of bodily injury to or death of one person in any one accident, and, subject to said limit for one person, in the amount of *twenty thousand dollars ($20,000)* because of bodily injury to or death of two or more persons in any one accident, and in the amount of *five thousand dollars ($5,000)* because of injury to or destruction of property of others in any one accident.

Ten thousand dollars.

Twenty thousand dollars.

Five thousand dollars.

"Registration."

13. "Registration"—Registration certificate or certificates and registration plates issued under the laws of this state pertaining to the registration of motor vehicles.

"State."

14. "State"—Any state, territory or possession of the

HeinOnline -- 1967 vol. I 65 1967

United States, the District of Columbia, or any province of the Dominion of Canada."

Amending clause.

Section 2. 53-422, R.C.M., 1947, is amended to read as follows:

Determination of security required.

"53-422. **Determination of security required—suspension of license and registration—exceptions—liability insurance.** (a) If within twenty (20) days after the receipt of a report of a motor vehicle accident within this state which has resulted in bodily injury or death, or damage to the property of any one person in excess of one hundred dollars ($100.00), the supervisor does not have on file evidence satisfactory to him that the person who would otherwise be required to file security under subsection (b) of this section has been released from liability, or has been finally adjudicated not to be liable, or has executed a duly acknowledged written agreement providing for the payment of an agreed amount in installments with respect to all claims for injuries or damages resulting from the accident, the supervisor shall determine the amount of security which shall be sufficient in his judgment to satisfy any judgment or judgments for damages resulting from such accident as may be recovered against each operator or owner.

Suspension of license and registration.

(b) The supervisor shall, within sixty (60) days after the receipt of such report of a motor vehicle accident, suspend the license of each operator and the registrar, upon request of the supervisor, shall suspend all registrations of each and every owner or co-owner of a motor vehicle, which is in any manner involved in such accident, except those registrations of co-owned vehicles not involved in such accident and if such operator is a nonresident the privilege of operating a motor vehicle within this state, and if such owner is a nonresident the privilege of the use within this state of any motor vehicle owned by him, unless such operator or owner or both shall deposit security in the sum so determined by the supervisor; provided notice of the suspension of such registration or registrations shall be sent by the registrar to such operator and owner not less than ten (10) days prior to the effective date of such suspension and such notice shall state the amount required by the supervisor as security. Where erroneous information is given the supervisor with respect to the matters set forth in subdivisions 1, 2 or 3 of subsection (c) of this section, he shall take

HeinOnline -- 1967 vol. I 66 1967

appropriate action as hereinbefore provided, within sixty (60) days after the receipt by him of correct information with respect to said matters.

Exceptions—liability insurance.

(c) This section shall not apply under the conditions stated in section 53-423, nor:

1. to such operator or owner if such owner had in effect at the time of such accident an automobile liability policy with respect to the motor vehicle involved in such accident;

2. to such operator, if not the owner of such motor vehicle, if there was in effect at the time of such accident an automobile liability policy or bond with respect to his operation of motor vehicles not owned by him;

3. to such operator or owner if the liability of such operator or owner for damages resulting from such accident is, in the judgment of the supervisor, covered by any other form of liability insurance policy or bond; nor

4. to any person qualifying as a self-insurer under section 53-451, or to any person operating a motor vehicle for such self-insurer.

Qualification of policy.

No such policy or bond shall be effective under this section unless issued by an insurance company or surety company authorized to do business in this state, except that if such motor vehicle was not registered in this state, or was a motor vehicle which was registered elsewhere than in this state at the effective date of the policy or bond, or the most recent renewal thereof, such policy or bond shall not be effective under this section unless the insurance company or surety company if not authorized to do business in this state shall execute a power of attorney authorizing the supervisor to accept service on its behalf of notice or process in any action upon such policy or bond arising out of such accident; provided, however, every such policy or bond is subject, if the accident has resulted in bodily injury or death, to a limit, exclusive of interest and costs, of not less than *ten thousand dollars ($10,000)* because of bodily injury to or death of one person in any one accident and, subject to said limit for one person, to a limit of not less than *twenty thousand dollars ($20,000)* because of bodily injury to or death of two or more persons in any one accident, and, if the accident has resulted in injury to or

Ten thousand dollars.

Twenty thousand dollars.

HeinOnline -- 1967 vol. I 67 1967

destruction of property, to a limit of not less than *five thousand dollars ($5,000)* because of injury to or destruction of property of others in any one accident."

Five thousand dollars.

Amending clause.

Section 3. Section 53-432, R.C.M., 1947, is amended to read as follows:

Satisfaction of judgments.

"53-432. **Satisfaction of judgments.** Judgments herein referred to shall, for the purposes of this act only, be deemed satisfied:

1. when *ten thousand dollars ($10,000)* has been credited upon any judgment or judgments rendered in excess of that amount because of bodily injury to or death of one person as the result of any one accident; or

Ten thousand dollars.

Twenty thousand dollars.

2. when, subject to such limit of *ten thousand dollars ($10,000)* because of bodily injury to or death of one person, the sum of *twenty thousand dollars ($20,000)* has been credited upon any judgment or judgments rendered in excess of that amount because of bodily injury or death of two or more persons as the result of any one accident; or

Five thousand dollars.

3. when *five thousand dollars ($5,000)* has been credited upon any judgment or judgments rendered in excess of that amount because of injury to or destruction of property of others as a result of any one accident;

Payments to be credited.

Provided, however, payments made in settlement of any claims because of bodily injury, death or property damage arising from a motor vehicle accident shall be credited in reduction of the amounts provided for in this section."

Amending clause.

Section 4. Section 53-438, R.C.M. 1947, is amended to read as follows:

"Motor vehicle liability policy."

"53-438. **Motor vehicle liability policy defined.** (a) A "motor vehicle liability policy" as said term is used in this act shall mean an owner's or operator's policy of liability insurance, certified as provided in section 53-436 or section 53-437 as proof of financial responsibility and issued, except as otherwise provided in section 53-437, by an insurance carrier duly authorized to transact business in this state, to or for the benefit of the person named therein as insured.

Policy to designate.

(b) Such owner's policy of liability insurance: 1. shall designate by explicit description or by appropriate

HeinOnline -- 1967 vol. I 68 1967

reference all motor vehicles with respect to which coverage is thereby to be granted; and 2. shall insure the person named therein and any other person, as insured, using any such motor vehicle or motor vehicles with the express or implied permission of such named insured, against loss from the liability imposed by law for damages arising out of the ownership, maintenance or use of such motor vehicle or motor vehicles within the United States of America or the Dominion of Canada, subject to limits exclusive of interest and costs, with respect to each such motor vehicle, as follows: *ten thousand dollars ($10,000)* because of bodily injury to or death of one person in any one accident and subject to said limit for one person, *twenty thousand dollars ($20,000)* because of bodily injury to or death of two or more persons in any one accident, and *five thousand dollars ($5,000)* because of injury to or destruction of property of others in any one accident.

Policy to insure.

Ten thousand dollars.

Twenty thousand dollars.

Five thousand. dollars.

(c) Such operator's policy of liability insurance shall insure the person named as insured therein against loss from the liability imposed upon him by law for damages arising out of the use by him of any motor vehicle not owned by him, within the same territorial limits and subject to the same limits of liability as are set forth above with respect to an owner's policy of liability insurance.

Non-owned vehicle.

(d) Such motor vehicle liability policy shall state the name and address of the named insured, the coverage afforded by the policy, the premium charged therefor, the policy period and the limits of liability, and shall contain an agreement or be endorsed that insurance is provided thereunder in accordance with the coverage defined in this act as respects bodily injury and death or property damage, or both, and is subject to all the provisions of this act.

Policy to state..

(e) Such motor vehicle liability policy need not insure any liability under any workmen's compensation law nor any liability on account of bodily injury to or death of an employee of the insured while engaged in the employment, other than domestic, of the insured, or while engaged in the operation, maintenance or repair of any such motor vehicle nor any liability for damage to property owned by, rented to, in charge of or transported by the insured.

Policy may exclude.

(f) Every motor vehicle liability policy shall be subject to the following provisions which need not be con-

Provisions not required.

HeinOnline -- 1967 vol. I 69 1967

tained therein: 1. the liability of the insurance carrier with respect to the insurance required by this act shall become absolute whenever injury or damage covered by said motor vehicle liability policy occurs; said policy may not be canceled or annulled as to such liability by any agreement between the insurance carrier and the insured after the occurrence of the injury or damage; no statement made by the insured or on his behalf and no violation of said policy shall defeat or void said policy;

2. the satisfaction by the insured of a judgment for such injury or damage shall not be a condition precedent to the right or duty of the insurance carrier to make payment on account of such injury or damage;

3. the insurance carrier shall have the right to settle any claim covered by the policy, and if such settlement is made in good faith, the amount thereof shall be deductible from the limits of liability specified in subdivision 2 of subsection (b) of this section;

4. the policy, the written application therefor, if any, and any rider or endorsement which does not conflict with the provisions of the act shall constitute the entire contract between the parties.

Excess coverage.

(g) Any policy which grants the coverage required for a motor vehicle liability policy may also grant any lawful coverage in excess of or in addition to the coverage specified for a motor vehicle liability policy and such excess or additional coverage shall not be subject to the provisions of this act. With respect to a policy which grants such excess or additional coverage the term "motor vehicle liability policy" shall apply only to that part of the coverage which is required by this section.

Reimbursement of carrier.

(h) Any motor vehicle liability policy may provide that the insured shall reimburse the insurance carrier for any payment the insurance carrier would not have been obligated to make under the terms of the policy except for the provisions of this act.

Prorating of insurance.

(i) Any motor vehicle liability policy may provide for the prorating of the insurance thereunder with other valid and collectible insurance.

Multiple policies

(j) The requirements for a motor vehicle liability policy may be fulfilled by the policies of one or more

HeinOnline -- 1967 vol. I 70 1967

insurance carriers which policies together meet such requirements.

(k) Any binder issued pending the issuance of a motor vehicle liability policy shall be deemed to fulfill the requirements for such a policy." Binder to meet requirements.

Approved: February 11, 1967.

CHAPTER 31

An Act Relating to Automobile Liability Insurance Policies; Requiring Such Policies to Contain Uninsured Motorist Provision; Permitting Rejection of Such Coverage at the Option of the Insured; Providing for an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. No automobile liability or motor vehicle liability policy insuring against loss resulting from liability imposed by law for bodily injury or death suffered by any person arising out of the ownership, maintenance, or use of a motor vehicle, shall be delivered or issued for delivery in this state, with respect to any motor vehicle registered or principally garaged in this state, unless coverage is provided therein or supplemental thereto, in limits for bodily injury or death set forth in section 53-422, under provisions filed with and approved by the insurance commissioner, for the protection of persons insured thereunder who are legally entitled to recover damages from owners or operators of uninsured motor vehicles because of bodily injury, sickness or disease, including death, resulting therefrom; provided, that the named insured shall have the right to reject such coverage; and, provided further, that unless the named insured requests such coverage in writing, such coverage need not be provided in or supplemental to a renewal policy where the named insured had rejected the coverage in connection with the policy previously issued to him by the same insurer. Motor vehicle liability policies to contain uninsured motorist provision.

Section 2. This act is effective January 1, 1968. Effective date.

Approved: February 11, 1967.

HeinOnline -- 1967 vol. I 71 1967

CHAPTER 32

An Act Giving Cities and Towns One-Half (½) of the Money From Judgments Obtained on Appeals From Police Courts.

Be it enacted by the Legislative Assembly of the State of Montana:

Judgments on appeal from police courts—city to receive one-half.

Section 1. All fines obtained from a judgment in a higher court on an appeal from a police court for violation of a city ordinance, tried de novo, in the higher court, shall be paid to the county treasurer who shall before thirty-one (31) days after receipt of the sum forward one-half (½) of the amount to the treasurer of the city in which the action originated.

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Approved: February 11, 1967.

CHAPTER 33

An Act Amending Section 26-202.3, R.C.M. 1947, Thereby Enlarging the Definition of a Resident, for the Purpose of Issuing Resident Fishing Licenses, to Include Enrolees of the Job Corps Located Within Montana.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 26-202.3, R.C.M. 1947, is amended to read as follows:

"Resident."

"26-202.3. **Defining resident.** That in determining a resident for the purpose of issuing resident fishing and hunting licenses, the following provisions shall apply:

Members of armed forces.

(1) That members of the armed forces of the United States or members of the armed forces of foreign governments attached to the armed forces of the United States, who are assigned to duty in Montana, and members of their immediate families, and after a period of thirty (30) days within Montana, upon presenting assignment orders emanating from the proper unit commander, shall be considered residents for the purpose of this act. The thirty (30) day residence requirement is waived in time of war.

HeinOnline -- 1967 vol. I 72 1967

(2) Any citizen of the United States of America who has continuously resided within the state of Montana for a period of six (6) months immediately prior to making application for said license, shall be eligible to receive a resident hunting or fishing license.

Citizens of U. S. residing in Montana.

(3) Any enrollee of a job corps camp located within the state of Montana shall, after a period of thirty (30) days within Montana, be considered a resident for the purpose of making application for a fishing license as long as he remains an enrollee in a Montana camp."

Enrollees of job corps camps.

Approved: February 11, 1967.

CHAPTER 34

An Act to Amend Section 26-301, R.C.M. 1947, to Allow the Snagging of Silver Salmon and Paddlefish Under Commission Regulation; to Allow the Taking of Paddlefish by Bow and Arrow Under Commission Regulation; and to increase the Width of Seining Nets to Standard Manufactured Size.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 26-301, R.C.M. 1947, is amended to read as follows:

Amending clause.

"26-301. **Restrictions of manner of taking and possessing fish and game and powers of commission relating thereto.** 1. It shall be unlawful for anyone to take, capture, shoot, kill, or attempt to take, capture, shoot or kill, any game animal, or game bird from any self propelled or drawn vehicle, or on, or from any public highway in the state of Montana, or by the aid or with the use of any set gun, jack-light, or other artificial light, trap, snare, salt lick, nor shall any such set gun, jack-light or other artificial light, trap, snare, salt lick or other device to entrap or entice game animals or game birds be used, made or set, nor may rifles be used to hunt or shoot upland game birds unless the use of rifles is permitted by the commission; provided, however, that this does not prohibit the shooting of wild waterfowl from blinds over decoys with a shotgun only, not larger than a number ten (10) gauge fired from the shoulder, nor shall any game fish be caught, captured, or taken, or

Restrictions in taking and possessing fish and game—— powers of commission— use of vehicles and other means prohibited.

HeinOnline -- 1967 vol. I 73 1967

attempted to be caught, captured or taken by the aid or with the use of any gun, or trap, nor shall any such set gun, or trap or other device to entrap game fish be used, made, or set.

Prohibition of use of aircraft.

2. (a) No game birds or game or furbearing animals shall be killed, taken or shot at from any aircraft, nor shall any aircraft be used for the purpose of concentrating, pursuing, driving, rallying or stirring up any game or migratory birds, game or furbearing animals, nor shall any power boat, sailboat, or any boat under sail or any floating device towed by a powerboat, sailboat, or any boat under sail be used for the purpose of killing, capturing, taking, pursuing, concentrating, driving or stirring up any game birds, or migratory waterfowl, or game or furbearing animals.

(b) No person in an aircraft in the air shall spot or locate any game, or migratory bird, game or furbearing animals and communicate the location or approximate location thereof by any signals whatsoever, whether radio, visual or otherwise, to any person or persons then on the ground.

Silencers prohibited.

3. No person shall take into a field or forest, or have in his possession while out hunting, any device or mechanism devised to silence or muffle or minimize the report of any firearms, whether such device or mechanism be operated from or attached to any firearm.

Shotguns—deer.

4. No person may use a shotgun to hunt, kill or shoot deer except with loads as specified by the commission.

Use of dogs and deadfall.

5. No person shall chase with dogs any of the game or furbearing animals as defined by the fish and game laws of this state; provided, however, that livestock owners, employees of the state fish and game commission and of the federal fish and wildlife service may use dogs in pursuit of stock-killing bears, or other means of taking stock-killing bears except the use of the dead fall; providing, however, that traps used in capturing bear shall be inspected twice each day, which inspection shall be twelve (12) hours apart; and provided further, that a person may take game birds during the open season thereon with the aid of a dog or dogs and any person or association organized for the protection of game, may run field trials at any time upon obtaining written permission from the state fish and game director.

HeinOnline -- 1967 vol. I 74 1967

Use of set lines.

6. The state fish and game commission shall have the power to designate certain waters where set lines may be used to fish for certain species of game or non-game fish, and the commission may designate the number of hooks and lines and the length of line or lines which may be used as set lines.

Taking of game fish—snagging and bow and arrow allowed—when.

7. Game fish shall be taken only by angling, that is by hook and single line in hand or single rod in hand, or within immediate control; this does not prevent, however, the snagging of *paddlefish, coho (silver salmon), and kokanee (*sockeye salmon*)* when the commission shall declare an open season when *paddlefish, coho (silver salmon), and kokanee (*sockeye salmon*)* may be taken by snagging, *the taking of paddlefish with long bow and arrow when the commission shall declare an open season when paddlefish may be taken by long bow and arrow,* nor the use of landing net or gaff to land a game fish after the same has been hooked by angling as above specified, nor does it prevent the taking of minnows other than game fish variety by the use or aid of a net not to exceed twelve (12) feet in length and *four (4)* feet in width, in such waters as may be designated by the commission.

Enforcement of rules.

8. Whenever said fish and game commission shall have made any orders, rules or regulations for the carrying out of the powers granted to it under this act, the same shall take effect and be in force from and after the publication and posting of notice of said orders, rules and regulations as required by the fish and game laws.

Violations.

Any person violating any of the provisions of this section shall be deemed guilty of a misdemeanor and shall be punishable as provided by law."

Approved: February 14, 1967.

CHAPTER 35

An Act Providing for Simplification of Record Requirements for Beaver Skins Imported Into and Exported Out of Montana, Simplifying the Tagging Requirements for Beaver Trapped in Montana; Amending Section 26-401, R.C.M. 1947.

HeinOnline -- 1967 vol. I 75 1967

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 26-401, R.C.M. 1947, is amended to read as follows:

Protection of beaver.

"26-401. **Protection of beaver—permits and fee—tagging, importing and exporting of skins—expiration of permit—penalty for violation.** No person shall take, trap, shoot, kill, capture or attempt to take, trap, shoot, kill or capture, or in any way destroy any beaver in the state of Montana, or possess, buy, sell, ship or transport within or without the state, or cause the same to be done, any beaver or any part thereof including skins or hides and castors whether taken within or coming from without the state, except as hereinafter permitted.

Open season on beaver.

Whenever beaver have increased in number to such an extent that in the judgment of the state fish and game commission the number of such beaver should be reduced, the commission shall have the authority to declare an open season on beaver under such rules and regulations as it shall prescribe; provided, however, that nothing herein contained shall authorize trapping on privately owned or leased lands, except with the approval of the landowner or lessee, or as hereinafter provided.

Permits and fees.

The state fish and game director may issue a permit to any bona fide owner or lessee of real estate which is being actually and materially damaged by beaver, to trap beaver on his own or leased premises only, and provided that the director shall, when issuing the permit mentioned, designate therein the maximum number of beaver that may be trapped under such permit. The fee for such permit shall be five dollars ($5.00). All applications for beaver permits shall be filed with the state fish and game director, between the dates of May first and *December thirty-first (31)* of each year. The term "premises" shall be construed to include any irrigation ditch or right of way appurtenant to the land for which said license or permit is issued.

"Premises."

Examination of damage.

That the state fish and game director shall in person or, by warden, examine the premises and investigate the alleged damage by beaver before issuing a license or permit.

Tagging, importing and exporting of skins.

Any person trapping beaver under a license or permit of the state fish and game director shall properly care

HeinOnline -- 1967 vol. I 76 1967

for all skins of beaver taken thereunder and as soon as cured shall send to the state fish and game warden an affidavit giving his name, residence, license or permit number, the date and place of capture, with the number so captured, together with fifty cents (50¢) for each skin, and if such officer is satisfied of the legal taking of the same, he shall thereupon *attach metal numbered tags to each skin.*

Report of imports.

Any person who shall receive or bring into from without the state any beaver skin or skins shall report their arrival within *thirty (30)* days to the state fish and game director and furnish an affidavit *a report* setting forth the number of skins, the date of receipt, the name and address of the person from whom procured.

Record.

The state fish and game director shall keep a record of all skins so reported.

Metal tag.

Each metal tag shall remain attached to the beaver skin to which it was originally affixed until it is dressed and manufactured into an article of commerce, or it shall accompany any skin shipped or transported out of the state. It shall be a misdemeanor, punishable as hereinafter provided, to remove a tag from such skins, to duplicate or reproduce such tags for fraudulent purposes or use contrary to the provisions of this act, or to misuse any tag detached from the skin to which it was originally attached.

Beaver skins taken within the state under permit, tagged as herein provided *and beaver skins legally imported* may be possessed, bought, sold or transported at any time within the state of Montana, but no beaver skin or skins may be exported in any manner from the state without the shipper first obtaining an export or shipping permit from the state fish and game director, which may be issued upon application showing *the* number of skins *and the state or states from which they were trapped* and the payment of a fee of sixty cents (60¢) for the permit for each shipment.

Permit fee.

Any package offered for transportation from the state which contains a beaver skin or skins shall be clearly marked on the outside thereof with the names and addresses of the consignor and consignee, the number and kind of skins contained therein, and the number of the shipping permit.

HeinOnline -- 1967 vol. I 77 1967

Violations.

Any person who shall violate any of the provisions of this section shall be guilty of a misdemeanor, and upon conviction shall be punished as provided by section 26-324.

Any beaver skin or skins taken or found in this state or which have been shipped out of this state except as specifically permitted by this section are being hereby declared contraband and shall be seized by the state fish and game director, warden or other officer authorized to enforce the provisions of this act. All skins so seized shall be marked or tagged for identification and sold by the state fish and game director at public auction in the state of Montana, after advertising at least fifteen (15) days prior to the date of sale, and the proceeds therefrom turned into the state treasury to be credited to the fish and game fund.

Expiration of permits.

Beaver trapping permits issued under the provisions of this act shall expire June first of each year and all beaver skins taken thereunder and not reported and tagged according to the provisions of this section prior to July first following, shall be subject to seizure and sale as herein provided."

Approved: February 14, 1967.

CHAPTER 36

An Act to Amend Section 66-506 of the Revised Codes of Montana of 1947, Relating to Examinations for License to Practice Chiropractic, to Provide the Montana Board of Chiropractic Examiners May Accept Grades an Applicant Has Received in Written Examinations Given by the National Board of Chiropractic Examiners and May Grant a License to the Holder of a Certificate from Such National Board Without Further Written Examination Under Certain Circumstances; Providing an Effective Date; and Containing a Repealing Clause.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 66-506 of the Revised Codes of Montana of 1947 is amended to read as follows:

HeinOnline -- 1967 vol. I 78 1967

"66-506. **Examinations—subjects embraced in.** Examinations for license to practice chiropractic shall be made by said board according to the method deemed by it to be the most practicable and expeditious to test the applicant's qualifications. Such application shall be designated by a number instead of the applicant's name, so that the identity will not be discovered or disclosed to the members of the board until after the examination papers are graded. Examinations.

All examinations shall be made in writing, the subjects of which shall be as follows: Anatomy, physiology, symptomatology, diagnosis, chiropractic orthopedy, principles of chiropractic and adjusting, sanitation and hygiene, urinalysis, gynecology, and palpation. Additional subjects may be prescribed from time to time by the board to meet new conditions. A license shall be granted to all applicants who shall correctly answer seventy-five per centum of all questions asked, and if any applicant shall fail to answer correctly sixty per centum of the questions on any branch of said examination, he or she shall not be entitled to a license. Subjects of examination. Grading limits.

The board may accept the grades an applicant has received in the written examinations given by the national board of chiropractic examiners and may grant a license without further written examination to an applicant who holds a valid certificate from the national board of chiropractic examiners, provided such applicant meets the other requirements of this chapter and satisfactorily passes a practical examination before the board." Examination by national board accepted.

Section 2. This act shall be in full force and effect from and after its passage and approval. Effective immediately.

Section 3. All acts and parts of acts in conflict herewith are hereby repealed. Repealing clause.

Approved: February 14, 1967.

CHAPTER 37

An Act to Amend Section 26-202.3, R.C.M. 1947, Redefining Resident for Hunting and Fishing License Purposes.

Be it enacted by the Legislative Assembly of the State of Montana:

HeinOnline -- 1967 vol. I 79 1967

Amending clause.

Section 1. Section 26-202.3, R.C.M. 1947, is amended to read as follows:

Resident.

"26-202.3. **Defining resident.** That in determining a resident for the purpose of issuing resident fishing and hunting licenses, the following provisions shall apply:

Members of armed forces.

(1) That members of the armed forces of the United States or members of the armed forces of foreign governments attached to the armed forces of the United States, who are assigned to duty in Montana, and members of their immediate families, and after a period of thirty (30) days within Montana, upon presenting assignment orders emanating from the proper unit commander, shall be considered residents for the purpose of this act. The thirty (30) day residence requirement is waived in time of war.

Resident as defined in Section 83-303.

(2) Any citizen of the United States of America who has *been a resident of* the state of Montana, *as defined in section 83-303, revised codes of Montana, 1947,* for a period of six (6) months immediately prior to making application for said license shall be eligible to receive a resident hunting or fishing license."

Effective May 1, 1967.

Section 2. This act is effective May 1, 1967.

Approved: February 14, 1967.

CHAPTER 38

An Act Authorizing the Governing Body of an Incorporated City or Town to Adopt Technical Codes by Reference; Amending Section 11-1102, R.C.M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 11-1102, R.C.M. 1947, is amended to read as follows:

Ordinances—how prepared.

"11-1102. **Ordinances—how prepared.** *(1)* All ordinances, by-laws and resolutions must be passed by the council and approved by the mayor, or the person acting in his stead, and must be recorded in a book kept by the clerk called 'The Ordinance Book,' and numbered in the order in which they are passed.

Adoption of codes.

(2) The governing body of an incorporated city or town may adopt technical building, zoning, health, electri-

HeinOnline -- 1967 vol. I 80 1967

cal, and plumbing codes in whole or in part by reference. At least fifteen (15) days prior to final action by a governing body of the city or town, notice of intent to adopt a technical code in whole or in part by reference shall be published in a newspaper of general circulation in the city or town and three (3) copies of the code, or part to be adopted, shall be filed with the clerk of the city or town for inspection by the public.

Publication.

(3) If a technical code, or part of a code, is adopted by reference, a record in 'The Ordinance Book' may be made by recording the ordinance without setting forth the provisions of the code, or part of a code, adopted.

Adoption by reference.

(4) Ordinances take effect from and after their passage, except as otherwise ordered, and no ordinance shall be passed containing more than one subject, which shall be clearly expressed in its title, except ordinances for the codification and revision of ordinances."

Effective—when.

Approved: February 16, 1967.

CHAPTER 39

An Act to Amend Section 81-304, R.C.M. 1947, to Delete the Provisions Limiting the Number of Sections of Land That May Be Exchanged in Any One (1) Year With the Federal Government to Six (6) Sections; Requiring That Lands Received From the United States Be Located in the Same County As the Relinquished Lands; and Requiring Recognition of Present Lessees or Permittees for Their Use of the Land.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 81-304, R.C.M. 1947, is amended to read as follows:

Amending clause.

"81-304. **Exchange of lands with United States and counties—validation of prior actions.** The state board of land commissioners of the state of Montana is hereby authorized and empowered to enter into contracts or agreements with the United States, or any department thereof having jurisdiction for the waiving and relinquishment to the United States of any and all rights of the state of Montana in and to sections sixteen (16) and

Exchange of lands with United States.

HeinOnline -- 1967 vol. I 81 1967

thirty-six (36) of any township and to any other sections of state lands, provided that the state of Montana shall in lieu of the rights so waived and relinquished receive from the United States other lands of equal or greater value.

Exchange of lands with counties.

The state board of land commissioners of the state of Montana is hereby authorized to accept on behalf of the state of Montana title in fee simple to any land owned by a county in the state of Montana and to convey in exchange therefor state-owned land of approximately the same area and of a value not higher than the land received from the county whenever such exchange will result in consolidating the state-owned lands into more compact bodies.

Validation of prior actions.

All contracts and agreements heretofore entered into between the state board of land commissioners and the United States, or any department thereof, waiving and relinquishing the rights of the state of Montana to sections sixteen (16) and thirty-six (36) in any township in this state, and the selection of lands in lieu or [of] those so relinquished by the state are hereby ratified, confirmed and validated. *The current user of the land transferred to the United States will continue to enjoy such use of such terms and conditions as may be required by the federal government and in accordance with the Multiple Use Act and the current user on the land received from the United States will continue to utilize the land on the terms and conditions imposed by law or the state board of land commissioners.''*

Approved: February 16, 1967.

CHAPTER 40

An Act Amending Sections 41-1302 and 41-1303, R.C.M. 1947, Relating to Time for Payment of Wages; Authorizing the Commissioner of Labor to Investigate Violations; and Authorizing Said Commissioner to Accept Assignments of Wage Claims and Institute Proceedings to Enforce Such Claims.

Be it enacted by the Legislative Assembly of the State of Montana:

HeinOnline -- 1967 vol. I 82 1967

Section 1. Section 41-1302 of the Revised Codes of Montana, 1947, is hereby amended to read as follows:

Amending clause.

"41-1302. **Penalty for failure to pay** *wages* **at times specified in law.** *A*ny employer, as such employer is defined in this act, *who* fails to pay any of his employees, as provided in the preceding *or following* sections, *or violates any other provision of this act,* shall be guilty of a misdemeanor. *A penalty shall also be assessed against and paid by such employer and become due such employee as follows:*

Penalty for failure to pay wages.

A sum equivalent to the fixed amount of five (5%) percent of the wages due and unpaid, shall be assessed for each day, except Sundays and legal holidays, upon which such failure continues after the day upon which such wages were due, except that such failure shall not be deemed to continue more than twenty (20) days after the date such wages were due.

Amount of penalty.

It shall be the duty of the commissioner of labor to inquire diligently for any violations of this act, and to institute actions for the *collection of unpaid wages and for the* penalties provided for herein, in such cases as he may deem proper, and to enforce generally the provisions of this act.

Commissioner of labor—duty.

Nothing herein contained shall be construed to limit the authority of the county attorney of any county of the state of Montana to prosecute actions, both civil and criminal, for such violations of this act as may come to his knowledge, or to enforce the provisions hereof independently and without specific direction of the commissioner of labor."

Authority of county attorney.

Section 2. Section 41-1303, R.C.M. 1947, is amended to read as follows:

Amending clause.

"41-1303. *Employees separated from employment before payday*—**wages, when payable.** Whenever any employee is *separated* from the employ of any such employer, then all the unpaid wages of such employee shall become due and payable *within three (3) days, either through the regular pay channels or by mail if requested by the employee; provided however, that where an employer's payroll checks originate at an office outside the state of Montana the time provided herein for payment of wages shall be extended for three (3) additional days.*

Employees separated from employment before payday.

HeinOnline -- 1967 vol. I 83 1967

Enforcement.

Section 3. **Enforcement.** The commissioner or his authorized representatives are empowered to enter and inspect such places, question such employees, and investigate such facts, conditions, or matters as they may deem appropriate, to determine whether any person has violated any provision of this act or any rule or regulation issued hereunder or which may aid in the enforcement of the provisions of this act.

Power of commissioner.

The commissioner or his authorized representatives shall have power to administer oaths and examine witnesses under oath, issue subpoenas, compel the attendance of witnesses, and the production of papers, books, accounts, records, payrolls, documents, and testimony, and to take depositions and affidavits in any proceeding before the commissioner.

Authority to take wage assignments.

Section 4. **Authority to take wage assignments.** Whenever the commissioner determines that one or more employees have claims for unpaid wages, he shall, upon the written request of the employee, take an assignment of the claim in trust for such employee, and may maintain any proceeding appropriate to enforce the claim, including liquidated damages pursuant to this act. With the written consent of the assignor, the commissioner may settle or adjust any claim assigned pursuant to this section.

Judgment for plaintiff.

Any judgment for the plaintiff in a proceeding pursuant to this act shall include all costs reasonably incurred in connection with the proceeding, including attorneys' fees. If the proceeding is maintained by the commissioner, no court costs or fees shall be required of him, nor shall he be required to furnish any bond or other security that might otherwise be required in connection with any phase of the proceeding.

Rules and regulations.

The commissioner is authorized to issue, amend, and enforce rules and regulations for the purpose of carrying out the provisions of the act.

Approved: February 16, 1967.

CHAPTER 41

An Act to Amend Section 53-106, R.C.M. 1947, Relating to Number Plates; Providing an Effective Date.

HeinOnline -- 1967 vol. I 84 1967

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 53-106, R.C.M. 1947, is amended to read as follows: Amending clause.

"53-106. **Number plates.** (1) Every motor vehicle which shall be driven upon the streets or highways of this state shall display both front and rear a number plate, bearing the distinctive number assigned such vehicle by the registrar of motor vehicles. Such number plate shall be in eight series: one series for owners of motor cars, one for owners of motor vehicles of the motorcycle type, one for trailers, one for trucks, one for dealers in vehicles of the motorcycle type, one for franchised dealers in new motor cars (including trucks and trailers) or new and used motor cars (including trucks and trailers) which shall bear the distinctive letter "D" or the (word) "DEALER," one for dealers in used motor cars only (including used trucks and trailers) which shall bear the distinctive letters "UD" or the letter "U" and the word "DEALER," and one for dealers in trailers and/or semi-trailers (new or used) which shall bear the distinctive letters "DTR" or the letters "TR" and the word "DEALER," and all such markings for the aforementioned kinds of dealers' plates shall be placed on the number plates assigned thereto in such position thereon as the registrar may designate. All number plates for motor vehicles shall be *issued every other year,* shall bear a distinctive marking, and shall be furnished by the state. *In alternate years the registrar shall provide non-removable stickers bearing appropriate registration numbers which shall be affixed to the license plates in use.* Number plates. Series. Markings. Issuance. Stickers.

(2) In the case of motor cars, number plates shall be of metal six inches wide and twelve inches in length, the outline of the state of Montana shall be used as a distinctive border on such license plates, and the word "Montana" with the year shall be placed across the bottom of the plate. Such registration plate shall be treated with a reflectorized background material according to specifications prescribed by the registrar. An additional fee of fifty (50) cents per year for each registration of a vehicle shall be added to the registration fee. Revenue from this fee shall be forwarded by the respective county treasurers to the state treasurer for deposit in the *motor vehicle recording account of the earmarked revenue fund. Disbursements from the motor vehicle recording account shall* Plate specifications. Additional fee—disbursement.

HeinOnline -- 1967 vol. I 85 1967

Numbering.

be made by warrant drawn by the registrar. The distinctive registration numbers shall begin with a number one (1) or with a letter-number combination such as "A 1" or "AA 1," or any other similar combination of letters and numbers and be numbered consecutively for each series of plates. The distinctive registration number or letter-number combination assigned to the vehicle shall appear on the plate preceded by the number of the county and appearing in horizontal order on the same horizontal base line, and the county number shall be separated from the distinctive registration number by a dash or a dot unless a letter-number combination is used. The dimensions of such numerals and letters shall be determined by the registrar of motor vehicles, provided that all county and registration numbers shall be of equal height.

Tax exempt vehicles.

(3) For the use of tax-exempt motor vehicles, in addition to the markings herein provided, number plates shall have thereon the following distinctive markings:

For vehicles owned by the state the registrar of motor vehicles may designate the prefix number for the various state departments, and all numbered plates issued to state departments shall bear the words 'State Owned' and no year number will be indicated thereon as these numbered plates will be of a permanent nature, and will be renewed by the registrar of motor vehicles at such time when the physical condition of numbered plates require same. For vehicles owned by the counties, municipalities and school districts and used and operated by officials and employees thereof in line of duty as such, and for vehicles on loan from the United States government or the state of Montana, to, or owned by, the civil air patrol and used and operated by officials and employees thereof in the line of duty as such, there shall be placed on the number plates assigned thereto, in such position thereon as the registrar may designate, the letter "X" or the word "EXEMPT." Distinctive registration numbers for plates assigned to motor vehicles of each of the counties in the state and those of the municipalities and school districts situated within each of said counties shall begin with number 1 and be numbered consecutively.

Truck and trailer vehicles.

(4) On all number plates assigned to motor vehicles of the truck and trailer type, other than tax-exempt trucks and trailers, there shall appear the letter "T" or

HeinOnline -- 1967 vol. I 86 1967

the word "TRUCK" for plates assigned to trucks and the letters "TR" or the word "TRAILER" for plates assigned to trailers, *and housetrailers.*

Number plates assigned to any motor vehicle shall be used only on the specified motor vehicle to which originally assigned.

(5) For the purpose of this act, the several counties of the state shall be assigned numbers as follows: Silver Bow, 1; Cascade, 2; Yellowstone, 3; Missoula, 4; Lewis and Clark, 5; Gallatin, 6; Flathead, 7; Fergus, 8; Powder River, 9; Carbon, 10; Phillips, 11; Hill, 12; Ravalli, 13; Custer, 14; Lake, 15; Dawson, 16; Roosevelt, 17; Beaverhead, 18; Chouteau, 19; Valley, 20; Toole, 21; Big Horn, 22; Musselshell, 23; Blaine, 24; Madison, 25; Pondera, 26; Richland, 27; Powell, 28; Rosebud, 29; Deer Lodge, 30; Teton, 31; Stillwater, 32; Treasure, 33; Sheridan, 34; Sanders, 35; Judith Basin, 36; Daniels, 37; Glacier, 38; Fallon, 39; Sweet Grass, 40; McCone, 41; Carter, 42; Broadwater, 43; Wheatland, 44; Prairie, 45; Granite, 46; Meagher, 47; Liberty, 48; Park, 49; Garfield, 50; Jefferson, 51; Wibaux, 52; Golden Valley, 53; Mineral, 54; Petroleum, 55; Lincoln, 56; any new counties shall be assigned numbers by the registrar of motor vehicles as they may be formed, beginning with the number 57." County designation.

Section 2. This act shall be in effect upon its passage and approval. Effective immediately.

Approved: February 16, 1967.

CHAPTER 42

An Act Regulating the Retail Sale of Imitation American Indian Arts and Crafts Articles.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. As used in this act:

(1) "Indian" means a person who is enrolled or who is a lineal descendant of one enrolled upon an enrollment listing of the Bureau of Indian Affairs, or upon the enrollment listing of a recognized Indian tribe, domiciled in the United States. "Indian."

HeinOnline -- 1967 vol. I 87 1967

"Imitation Indian arts or crafts articles."

(2) "Imitation Indian arts or crafts articles" means those made by machine, or made wholly out of synthetic or artificial materials, or articles which are not made by Indian labor or workmanship.

Imitations designated.

Section 2. No person shall distribute, sell, or offer for sale in this state any imitation American Indian arts or crafts articles unless the articles are at all times clearly and legibly designated as imitation.

Authentic articles.

Section 3. Only those articles bearing a registered trademark or label of authentic Indian labor or workmanship may be deemed authentic Indian arts or crafts articles.

Violation a misdemeanor.

Section 4. Any person who violates this act is guilty of a misdemeanor.

Approved: February 16, 1967.

CHAPTER 43

An Act to Amend Section 26-1201, R.C.M. 1947, Relating to Game or Fur Farm Permits Before Engaging in the Business or Occupation of Propagating, Owning and Controlling Game Animals, Game Birds or Furbearing Animals of the State of Montana by Excepting Migratory Game Birds and by Providing That the Owning, Controlling, Propagating, Salvage, Banding, Transportation, Shipping, Import, Export, Acquisition and Scientific Collecting of Migratory Game Birds Shall Be in Compliance With Regulations of the State Fish and Game Commission Adopted Pursuant to Section 26-320, R.C.M. 1947, by Removing the Requirement That the Skins, Pelts or Products of Game Farms Be Subject to the Same Royalty Tax and Tagging as Are the Skins or Pelts of Like Wild Animals, and Providing for a Special Tag Purchased From the Commission for a Fee of Five (5) Cents Each.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 26-1201, R.C.M. 1947, is amended to read as follows:

Permit for breeding game birds and animals and furbearing animals.

"26-1201. **Permit for breeding and propagating game birds and animals and furbearing animals.** Any person, or persons, firm, company or corporation before engaging in

HeinOnline -- 1967 vol. I 88 1967

the business or occupation of propagating, owning and controlling game animals, game birds *(except migratory game birds)*, or furbearing animals of the state of Montana, shall first procure a game or fur farm permit from the state fish and game director. *The owning, controlling, propagating, salvage, banding, transportation, shipping, import, export, acquisition and scientific collecting of migratory game birds shall be in compliance with regulations of the commission adopted pursuant to section 26-320, R.C.M. 1947.*

Exception.

Such game or fur farm permit shall be issued to responsible applicants who own or lease the premises on which their operations are to be conducted, when such applicant has so fenced the place where such game or fur farm is located, with fencing material, approved by the state fish and game director, so that no wild or public animal of like species can mix with those confined.

Applicants—requirements.

Foundation stock for a fur farm may be obtained from the state fish and game commission by a free permit authorizing game farm permit holders to capture a designated number of furbearing animals, with the exception of beaver or marten, for breeding stock, under such rules and regulations as the commission shall prescribe. Such furbearing animals captured under permit shall not be sold or pelted for the period of one (1) year after their capture and the skins or pelts of any furbearing animals accidentally killed during their capture or for the period of one (1) year thereafter shall be turned over to the state fish and game director.

Foundation stock.

Limitations on disposition.

A charge shall be made for the capture of each beaver or marten by fur farm permit holders for foundation stock, under authorization of the state fish and game warden, as follows:

Charge for foundation stock.

Beaver—fifteen dollars ($15) each.

Marten—twenty-five dollars ($25) each.

The skins, pelts or products of such beaver and marten on game or fur farms shall be tagged individually with tags purchased from the commission for a fee of five (5) cents each. Each game farm or fur farm shall be open to complete inspection by the state fish and game director or his wardens at any reasonable time, inclusive of the whole area thereof, all stock thereon, and all structures, pens,

Tagging.

Inspection.

HeinOnline -- 1967 vol. I 89 1967

Permits valid when.

and other devices thereon. Game farm or fur farm permits issued under the provisions of this act shall be valid during the time such game or fur farm is operated and conducted according to law, provided that on or before January 31 of each year a report shall be submitted by the licensee to the state fish and game director, showing the numbers and species of game or furbearing animals on hand on January 1, preceding, and the number and kinds of animals pelted, bought or sold during the year.

Trespassing notices —violation.

Any person or persons, except as herein provided, who, at any time, in any part of the state of Montana, without the consent of the owner or caretaker of any enclosure within which furbearing animals are kept for breeding purposes, and on the fence of which enclosure are kept posted notices forbidding trespassing on the premises where the said animals are kept, which notices must be plainly discernible at a distance of not less than twenty-five (25) yards therefrom, shall pass within the said fence or such enclosure or climb over, break or cut through the same for the purpose of entering the said enclosure, etc., or for any other purpose whatsoever, shall be guilty of a misdemeanor, and liable to the penalty hereinafter provided.

Certificate of identification.

Any person or persons, firm, company or corporation engaging in the business or occupation of fox or mink farming whose original foundation stock is or was not captured from the wild in the state of Montana shall apply for and be issued free of charge a numbered certificate of identification for such fur farm, which certificate shall be nontransferable and valid for the life of the business; provided, no other provisions of this section shall be construed to or shall in any manner affect such person, or persons, firm, company or corporation engaging in the business or occupation of fox or mink farming whose original foundation stock is or was not captured from the wild in the state of Montana."

Approved: February 16, 1967.

CHAPTER 44

An Act to Require Assignees of Monies Due From the State of Montana to File Written Notice of Assignment and a Copy of the Assignment Instrument With the

HeinOnline -- 1967 vol. I 90 1967

State Auditor; Restricting Multiple Assignments; Authorizing Promulgation of Rules and Regulations for Such Assignments by the State Auditor; and Allowing Deductions to Be Made From Salaries of Employees of the State for Specified Purposes.

Be it enacted by the Legislative Assembly of the State of Montana:

Written notice of assignment.

Section 1. All transfers and assignments made of any claim against the State of Montana, or any part thereof, or interest thereon, except as hereinafter provided, shall be absolutely null and void and unenforceable against the State of Montana unless the assignee thereof files written notice of the assignment on such forms as may be required by the State Auditor, together with a true copy of the instrument of assignment.

Assignment effective—when.

Section 2. Unless otherwise expressly permitted by the State Auditor, no more than one assignment of a claim shall be effective at one time, and no assignment shall be made to more than one party, except that an assignment may be made to one party as agent or trustee for two (2) or more parties. An assignment shall not be subject to further assignment.

Rules and regulations.

Section 3. The State Auditor may promulgate rules and regulations regarding the form of assignment, the procedures for filing assignments, and the submission of claims covering assigned funds.

Saving clause.

Section 4. Nothing contained herein shall in any way impair the negotiability of state warrants, nor preclude employees of the State of Montana from authorizing deductions from salaries for employees group insurance programs authorized by law, union dues, or purchase of U.S. Government Savings Bonds.

Approved: February 18, 1967.

CHAPTER 45

An Act Authorizing a City and County to Construct, Purchase or Lease, and Manage a City-County Building to House the Offices of City Government and County Government.

Be it enacted by the Legislative Assembly of the State of Montana:

HeinOnline -- 1967 vol. I 91 1967

Contract for city-county building.

Section 1. A city and a county may, by contract, construct, purchase or lease, and manage a city-county building to house the offices of city government and county government.

Contract to provide

Section 2. The contract shall provide

Expenditure.

(1) for the proposed expenditure for the construction, purchase or lease of the city-county building and the proposed cost of equipping and operating the building. The total cost of the joint institution shall be divided between the city and county in such manner as they shall determine.

Management.

(2) for the management of the building by a method which will provide that the city and county shall each be represented and have an active part in the management of the building.

Powers of management.

(3) that the management of the joint institution shall have such powers as will be necessary to accomplish the purposes of this act.

Saving clause.

Section 3. (1) This act shall not be interpreted as modifying or diminishing the bonding authority of counties or cities as provided by law.

Approved: February 18, 1967.

CHAPTER 46

An Act Providing Organization Meetings of School Boards Shall Be Held on or Before the Third Saturday in April; Amending Section 75-1621, R.C.M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 75-1621, R.C.M. 1947, is amended to read as follows:

Organization—notice—chairman.

"75-1621. **Organization.** The school trustees shall meet annually *after due and legal notice at a time between the school trustee election and on or before* the third Saturday in April and organize by choosing one of their number chairman, and a competent person, not a member of the board, as clerk. The chairman shall preside at all the meetings of the board, and shall perform such duties as usually pertain to such officer, and in accordance with the customary rules of order."

Approved: February 18, 1967.

HeinOnline -- 1967 vol. I 92 1967

CHAPTER 47

An Act to Amend Section 76-104 C, R.C.M. 1947 to Change the Compensation of Members of the State Soil Conservation Committee From Five Dollars ($5.00) to Twenty Dollars ($20.00) Per Day While on Duty.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 76-104 C, R.C.M. 1947, is amended to read as follows: Amending clause.

"76-104. **State soil conservation committee.** A. There is hereby established, to serve as an agency of the state, and to perform the functions conferred upon it in this act, the state soil conservation committee. The state soil conservation committee shall consist of seven (7) members. The following shall serve as members of the committee: The director of the state agricultural experiment station at Bozeman, Montana; the director of the state extension service at Bozeman, Montana; and the commissioner of the state department of agriculture. Four (4) farmer members to be appointed by the governor from a list of twenty (20) submitted by the Montana soil conservation districts association, at the next annual meeting of such association. In the formation of such list to be submitted to the governor, nominations shall be made by the convention and each district shall have one (1) vote. No person shall be eligible for the selection as a farmer member unless he is at the time of selection or shall have been at some previous time a soil conservation district supervisor. From the list of twenty (20) names submitted the governor shall appoint one (1) person to serve a one-year term, one (1) person to serve a two-year term, one (1) person to serve a three-year term, and one (1) person to serve a four-year term; thereafter each year a list of five (5) names will be compiled in the same manner and submitted to the governor, from which list the governor shall appoint one (1) person to serve a four (4) year term on the state soil conservation committee. In the event a vacancy should occur for any reason among the farmer members a successor shall be appointed by the governor to fill the unexpired term, which successor must be chosen from the last previous list submitted to the governor. The committee may invite the secretary of agriculture of the United States of America to appoint one person to serve with the above-

State soil conservation committee established.

Members.

Eligibility.

Terms.

Vacancy.

HeinOnline -- 1967 vol. I 93 1967

Record.

mentioned members as a nonvoting member of the committee. The committee shall keep a record of its official actions, shall adopt a seal, which seal shall be judicially noticed, and may perform such acts, hold such public hearings, and promulgate such rules and regulations as may be necessary for the execution of its functions under this act.

Personnel.

B. The state soil conservation committee may employ an administrative officer and such other agents and employees, permanent and temporary, as it may require, and shall determine their qualifications, duties, and compensation. The committee may call upon the state for such legal services as it may require, or may employ its own counsel and legal staff. It shall have authority to delegate to its chairman, to one or more of its members, or to one or more agents or employees, such powers and duties as it may deem proper. It shall be supplied with suitable office accommodations at the state college at Bozeman, Montana, and shall be furnished with the necessary supplies and equipment. Upon request of the committee for the purpose of carrying out any of its functions, the supervising officer of any state agency or of any state institution of learning shall, in so far as may be possible under available appropriations, and having due regard to the needs of the agency to which the request is directed, assign or detail to the committee members of the staff or personnel of such agency or institution of learning, and make such special reports, surveys, or studies as the committee may request.

Accommodations.

Reports, surveys and studies.

Chairman.

C. The committee shall annually elect a chairman from its own membership. State committeemen shall continue as members of the state committee so long as they shall retain the offices by virtue of which they shall be serving on the committee. The appointed farmer members shall hold office for four (4) years and their term of office shall be concurrent with the governor. A majority of the committee shall constitute a quorum, and the concurrence of a majority in any matter within their duties shall be required for its determination. Ex officio members of the committee shall receive no compensation for their services on the committee. Other members of the committee shall receive *twenty dollars ($20.00)* per day while on duty. All members of the state committee shall be entitled to expenses, including traveling expenses,

Quorum.

Compensation.

$20.00.

HeinOnline -- 1967 vol. I 94 1967

necessarily incurred in the discharge of their duties on the committee. The committee shall provide for the execution of surety bonds for all employees and officers who shall be entrusted with funds or property; shall provide for the keeping of a full and accurate record of all proceedings and of all resolutions, regulations, and orders issued or adopted; and shall provide for an annual audit of the account of receipts and disbursements.

Surety bonds.

D. In addition to the duties and powers hereinafter conferred upon the state soil conservation committee, it shall have the following duties and powers:

Duties and powers of committee.

(1) To offer such assistance as may be appropriate to the supervisors of soil conservation districts, organized as provided hereinafter, in the carrying out of any of their powers and programs;

(2) To keep the supervisors of each of the several districts organized under the provisions of this act informed of the activities and experiences of all other districts organized hereunder, and to facilitate an interchange of advice and experiences between such districts and co-operation between them;

(3) To co-ordinate the programs of the several soil conservation districts organized hereunder so far as this may be done by advice and consultation;

(4) To secure the co-operation and assistance of the United States and any of its agencies, and of agencies of this state, in the work of such districts;

(5) To disseminate information throughout the state concerning the activities and programs of the soil conservation districts organized hereunder, and to encourage the formation of such districts in areas where their organization is desirable."

Approved: February 18, 1967.

CHAPTER 48

An Act to Amend Scetions 59-538, 59-801 and 59-802, R.C.M. 1947, Increasing Per Diem and Mileage for State Employees and Officers.

Be it enacted by the Legislative Assembly of the State of Montana:

HeinOnline -- 1967 vol. I 95 1967

Amending clause.

Section 1. Section 59-538, R.C.M. 1947, is amended to read as follows:

Expenses of persons in state service.

"59-538. **Expenses of persons in state service—per diem allowance.** Every person engaged in any service in every department of state, inclusive of persons in appointive positions, or positions created by law, whose duties consist of full or partial time in traveling to perform any service for the state under monthly or yearly salary, or who may be sent by any authorized executive of any department of the state upon a mission in performance of any clerical work, supervisory or extension work or otherwise, of every kind and character, shall be allowed, for the time engaged in such travel, *twelve dollars ($12)* per day for such travel within the state of Montana, *and for travel outside the state of Montana the sum of twenty dollars ($20) per day for meals and other necessary expenses*; provided, that the provisions of this act shall not apply to persons holding offices specifically provided for in section 93-305, or section 93-313; provided that nothing herein contained shall be construed as affecting the validity of section 43-310; and provided further that the provisions of this act shall not apply to the elective state public officers of the state of Montana who shall in lieu thereof be authorized actual and necessary expenses while engaged in state service away from Helena, not to exceed *twenty dollars ($20)* per day."

$12.00.

$20.00.

$20.00.

Amending clause.

Section 2. Section 59-801, R.C.M. 1947, is amended to read as follows:

Mileage of officers.

"59-801. **Mileage of all officers.** Members of the legislative assembly, state officers, township officers, jurors, witnesses, county agents, and all other persons, except sheriffs, who may be entitled to mileage, when using their own automobiles or airplanes in the performance of official duties, shall be entitled to collect mileage at a rate of *nine cents (9¢)* per mile for the distance actually traveled by automobile, and at the rate of twelve cents (12¢) per air mile for the distance actually traveled by airplane, and no more unless otherwise specifically provided by law; provided, however, that nothing herein contained shall be construed as affecting the validity of section 43-310."

$.09.

$.12.

Amending clause.

Section 3. Section 59-802, R.C.M. 1947, is amended to read as follows:

HeinOnline -- 1967 vol. I 96 1967

"59-802. **Same—liability of approving board for exceeding authorized amount.** Whenever it shall be necessary for any state or county officer or employee to use his own automobile or airplane in the performance of any official duty where traveling expense is allowed by law, such officer or employee, except sheriffs, shall receive *nine cents (9¢)* per mile for each mile necessarily traveled by automobile and twelve cents (12¢) per air mile for each mile necessarily traveled by airplane unless otherwise specifically provided by law and the members of any lawful approving board shall be liable upon their official bonds, for any claim which they may allow in excess of such amount; provided, however, that nothing herein contained shall be construed as affecting the validity of section 43-310."

Liability for approval of excess amount.

$.09.

$.12.

Approved: February 18, 1967.

CHAPTER 49

An Act Amending Section 4-349, R.C.M. 1947, Relating to the Size of Interior Electrical Signs Furnished Retailers by Brewers or Wholesalers; Increasing the Permitted Size of Such Signs From Three Hundred (300) Square Inches to Six Hundred Thirty (630) Square Inches; Deleting Provision Pertaining to the Value of Such Signs and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 4-349, R.C.M. 1947, is amended to read as follows:

Amending clause.

"4-349. **Brewers and wholesalers not to supply fixtures, etc., to retailers, except as specified—brewers not to be interested in retailer financially.**

Fixtures supplied to retailers by brewers.

(a) It shall be unlawful for any brewer or wholesaler to lease, furnish, give or pay for any premises, furniture, fixtures, equipment, signs, or any other advertising matter or any other property to any retail licensee, used or to be used in the dispensation of beer in and about the interior or exterior of the place of business of any licensed retailer or furnish, give or pay for any repairs, improvements, painting or decorating on or within such premises; provided, however, that it shall be lawful for a brewer

Unlawful items.

HeinOnline -- 1967 vol. I 97 1967

or wholesaler to furnish, give or loan to a retail licensee:

Lawful items.

1. Bottle openers, can openers and trays, with or without advertising matter thereon;

$15.00.

2. Advertising matter or novelties, of a value of not to exceed fifteen dollars ($15) in any calendar year, to any one (1) retailer for display use on the interior of said retailer's place of business; and

Signs.

3. Not more than two (2) illuminated or electrical signs, each of not more than *six hundred thirty (630)* square inches in area, which signs may bear the name, brand name, trade name, trademark or other designation indicating the name of the manufacturer, and the place of manufacture, of beer, for display by the retail licensee on and within the interior of his place of business, or in the windows inside the place of business of the licensed retailer, and only if the particular brand of beer so advertised on such signs is actually available for sale on the licensee's premises, at the time of such display.

Brewers or wholesalers shall have no financial interest in retail business.

(b) No brewer or wholesaler shall advance or loan money to, or furnish money for, or pay for or on behalf of any retailer, for any license or tax which may be required to be paid for any retailer, and no brewer or wholesaler shall be financially interested, either directly or indirectly, in the conduct or operation of the business of a retailer, as herein defined. A brewer or wholesaler shall be deemed to have such a financial interest within the meaning of this section if

Financial interest —when.

(1) such brewer or wholesaler owns or holds any interest in, or a lien or mortgage against the retailer or his premises; or

(2) if such brewer or wholesaler is under any contract with a retailer concerning future purchases and/or sale of merchandise by one from, or to the other;

(3) if any retailer holds an interest as a stockholder, or otherwise, in the business of the wholesaler.

Sale or delivery of beer— payment within 7 days.

(c) No sale or delivery of beer shall be made to any retail licensee, except for cash paid within seven (7) days after the delivery thereof, and in no event shall any brewer or wholesaler extend more than seven (7) days' credit on account of such beer to a retail licensee, nor shall any retail licensee accept or receive delivery of such beer

HeinOnline -- 1967 vol. I 98 1967

without agreement to pay in cash therefore within seven (7) days from delivery thereof. A correctly dated check which is honored upon presentment shall be considered as cash within the meaning of this act. Any extension or acceptance of credit in violation hereof shall be regarded and construed as rendering or receiving financial assistance, and the licenses of both brewers, wholesalers and retail licensees involved in violation hereof shall be suspended or revoked, as determined by the board in its discretion."

Check considered as cash.

Section 2. This act shall be effective on January 1, 1968.

Effective date.

Approved: February 18, 1967.

CHAPTER 50

An Act Submitting to the Electorate at the November 1968 General Election the Question of Whether or Not the Legislative Assembly Shall Levy a Property Tax, in Addition to Any Levy Authorized by Section 9, Article XII of the Montana Constitution, of Not to Exceed Six (6) Mills on the Taxable Value of All Real and Personal Property Each Year for Ten (10) Years Beginning With the Year 1969 and Appropriate the Revenue From That Levy for the Support, Maintenance and Improvement of the Montana University System.

Be it enacted by the Legislative Assembly of the State of Montana:

Referendum for property tax before voters at general election in November, 1968.

Section 1. Upon the approval of the electors of this state, to be determined by their vote at the general election to be held in November of 1968, the legislative assembly shall levy a property tax, in addition to any levy authorized by section 9, article XII of the Montana constitution, of not more than six (6) mills on the taxable value of all real and personal property each year for ten (10) years beginning with the year 1969. All revenue from this property tax levy shall be appropriated for the support, maintenance, and improvement of the Montana university system.

Official ballot.

Section 2. This referendum shall be submitted to the electors on an official ballot which shall contain the

HeinOnline -- 1967 vol. I 99 1967

title of this act and the number of the referendum. The question shall be presented in substantially the following form:

☐ For Referendum Measure No.....

☐ Against Referendum Measure No.....

Approved: February 18, 1967.

CHAPTER 51

An Act to Amend Section 53-115, R.C.M. 1947, Relating to the Time for Making Application for Motor Vehicle Registration.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 53-115, Revised Codes of Montana, 1947, is amended to read as follows:

Time for making application for motor vehicle registration.

"53-115. **Time for making application.** Registration must be renewed annually and license fees paid annually. All registrations expire on December 31 of the year in which they are issued and application for registration, or reregistration, must be filed with the county treasurer as aforesaid not later than February *15* of each year."

Approved: February 18, 1967.

CHAPTER 52

An Act to Clarify Provision for Reviver of Corporation After Suspension or Forfeiture; Amending Section 84-1515, R.C.M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 84-1515, Revised Codes of Montana, 1947, is amended to read as follows:

Reviver of corporation after suspension or forfeiture.

"84-1515. **Reviver of corporation after suspension or forfeiture.** Any corporation which has suffered the suspension or forfeiture referred to in the preceding section may be relieved therefrom upon making application therefor in writing supported by a certificate from the

HeinOnline -- 1967 vol. I 100 1967

state board of equalization showing that the required return has been made and filed and/or that the tax and interest and penalties have been paid, for which the suspension or forfeiture occurred. Application for reviver may be made by any stockholder or creditor of the corporation or by a majority of the surviving trustees or directors, and the same shall be filed with the secretary of state, for which he shall receive a filing and recording fee of five dollars ($5). In case the application is made *more than one (1) year from the date* the suspension or forfeiture occurred the applicant shall pay twice the amount of the tax and penalties due the state for the taxable year *with respect to which* the suspension or forfeiture occurred, and upon such payment the secretary of state shall issue a certificate of reviver for which he shall collect a fee of five dollars ($5) and thereupon the applicant shall be revived. The reviver shall be without prejudice to any action, defense or right which has accrued by reason of the original suspension or forfeiture. The certificate of reviver shall be prima facie evidence of the reviver. Any certificate of reviver provided for in this section may be recorded in the office of the county recorder in any county of this state."

Application.

Fee.

Application made more than one year from date of suspension or forfeiture.

Certificate of reviver—fee.

Evidence of reviver.

Section 2. This act is effective on its passage and approval.

Effective immediately.

Approved: February 18, 1967.

CHAPTER 53

An Act to Permit Release of Lien and Discharge of Property From Force of Lien Imposed With Respect to Corporation License Tax Liability.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. (1) The state board of equalization shall issue a certificate of release of any lien imposed with respect to any tax due under title 84, chapter 15, R.C.M. 1947, when it finds that the liability for the amount of tax assessed, together with all penalties and interest in respect thereof has been fully satisfied. The state board of equalization may issue a certificate of release if it determines that the lien is unenforceable.

Certificate of release of lien to be filed when tax satisfied or unenforceable.

HeinOnline -- 1967 vol. I 101 1967

Certificate of discharge—when.

(2) The state board of equalization may issue a certificate of discharge of any part of the property subject to any lien imposed with respect to any tax due under title 84, chapter 15, R.C.M. 1947, if:

(a) It finds that the fair market value of that part of the property remaining subject to the lien is at least double the value of the unsatified liability secured by such lien and the amount of all other liens upon the property which may have priority to such lien;

(b) There is paid to the state treasurer in part satisfaction of the liability secured by the lien, an amount which shall not be less than the value, as determined by the state board of equalization, of the interest of the state of Montana in the part to be discharged; or

(c) The state board of equalization determines at any time that the interest of the state of Montana in the part to be so discharged has no value.

Approved: February 18, 1967.

CHAPTER 54

An Act to Amend Section 75-3908, R.C.M. 1947, Relating to the Petition and Election Required for Bond Issues Thereunder, to Provide That Proceedings Thereunder May Be Commenced by Resolution on the Part of the Board of Trustees of the School District; Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 75-3908, R.C.M. 1947, be, and the same is hereby amended to read as follows:

Petition and election required for bond issues for other purposes.

"75-3908. **Petition and election required for bond issues for other purposes.** School district bonds for any other purpose than those stated in sections 75-3906 and 75-3907, shall not be issued unless authorized at a duly called election at which the question of issuing such bonds was submitted to the electors of the school district; and no such election shall be called unless *proceedings have been commenced by resolution upon the part of the board of trustees of the school district of its own motion and without any petition being filed therefor or unless*

Resolution of board.

HeinOnline -- 1967 vol. I 102 1967

there has been presented to the board of trustees a petition asking that such election be held and such question be submitted, signed by not less than twenty per centum (20%) of the qualified registered electors residing within the school district, who are taxpayers upon property therein and whose names appear on the last completed assessment roll for state, county and school district taxes." Petition.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed. Repealing clause.

Approved: February 18, 1967.

CHAPTER 55

An Act to Amend Section 31-105, R.C.M. 1947, Relating to Qualifications, Salary, Probationary Training and Tenure of Office of Highway Patrolmen; Reorganizing Material Into Related Subsections; Creating the Rank of Lieutenant and Changing Title of "Supervisor" to "Chief"; Authorizing Montana Highway Patrol Board with the Approval of the State Board of Examiners and Within the Limits of Legislative Appropriation to Fix Salaries of Patrolmen; Reducing the Residence Requirement for Patrol Applicants from Three (3) Years to One (1) Year and Increasing Suspension Period from Twenty (20) to Thirty (30) Days.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That section 31-105, R.C.M. 1947, is amended to read as follows: Amending clause.

"31-105. *(1) Appointments and promotions.* Appointments and promotions—grades.

(a) The board shall designate captains, *lieutenants,* sergeants, and patrolmen in such numbers as the board may deem necessary, *but within the limits of the legislative appropriation made available for such purposes.*

(b) Replacements and additions to the highway patrol force shall be chosen in equal numbers *from* the twelve (12) highway districts, provided however, that if sufficient qualified applications are not received from any one district that the board may in its discretion substitute other qualified applicants from any other districts. Replacements and additions.

HeinOnline -- 1967 vol. I 103 1967

Patrolmen filling vacancies—reserve patrolmen.

(c) Patrolmen filling vacancies caused by the incumbents' entrance into the armed forces of the United States, shall on the return of the incumbents be placed in the patrol reserve, without pay; otherwise they shall hold their probationary or permanent appointments while there are sufficient operating funds. Reserve patrolmen shall then be used for future replacements in the permanent patrol.

Selection of officers.

(d) Captains, lieutenants and sergeants shall be selected from the patrolmen by the chief, subject to the approval of the highway patrol board. The duties and jurisdiction of the captains, lieutenants and sergeants shall be outlined, defined and under the control of the chief subject to the approval of the Montana highway patrol board.

Salaries—schedule of compensation.

(2) Salaries. (a) The Montana highway patrol board shall, within the limits of appropriations made available for such purpose, prepare a schedule of compensation and expenses which shall be uniform within all grades and submit it to the state board of examiners for their approval.

Base salary.

(b) The *base* salary of the captains, *lieutenants,* sergeants and patrolmen shall be fixed by the board, with the approval of the state board of examiners. In the event that *a* probationary patrolman is appointed permanently, he shall, at the time of such appointment, receive the base salary of patrolmen. These salaries shall be increased one percent (1%) per year for each additional year of service.

Increase for service.

Qualifications—patrolmen.

(3) Qualifications. (a) Patrolmen shall possess the following qualifications:

(i) Sound and active physical and mental condition.

(ii) Good moral character.

(iii) Resident of Montana for at least *one (1) year immediately prior to appointment.*

(iv) Pass a satisfactory test in the operation of automobiles.

(v) Citizens of the United States and state of Montana.

Probationary training—new patrolmen.

(4) Probationary training. (a) All *new* patrolmen shall be placed under probationary training and service for a period of six (6) months to one (1) year, during which time the highway patrol *chief* must recommend to the highway patrol board for permanent appointments;

HeinOnline -- 1967 vol. I 104 1967

otherwise the *probationary* patrolmen will automatically be *discharged.*

(b) All *newly appointed* captains, *lieutenants* and sergeants shall be placed under probationary training and service for a period of six (6) months to one (1) year, during which time the highway patrol *chief* must recommend to the highway patrol board for permanent appointments; *otherwise* the captains, *lieutenants* and sergeants will automatically revert to their previous ranks without prejudice. Newly appointed officers.

(5) Tenure of office. Every person employed or appointed and designated as a *chief,* captain, *lieutenant,* sergeant, or patrolman under and pursuant to the provisions of this act, except as provided *in subsection (4) above,* shall continue in service and hold his position without demotion until suspended, demoted, or discharged in the manner hereinafter provided, for one *(1)* or more of the causes specified in the following *subsection.* Tenure of office.

(6) Suspension, demotion or discharge. Cause for suspension, demotion or discharge will be: Cause for dismissal.

(a) Conviction of any crime involving moral turpitude in any court of competent jurisdiction subsequent to the commencement of such employment.

(b) Gross neglect of duty or willful violation or disobedience of orders or regulations.

(c) Loitering about or entering places of ill fame, ill repute, or where gambling is known to be conducted or to be in progress, except in the immediate discharge of duty.

(d) Conduct unbecoming an officer.

(e) Drinking intoxicating liquor while using state-owned cars or in uniform, or being intoxicated in a public place.

(f) Sleeping while on duty.

(g) Incapacity, or partial incapacity, materially affecting his ability to perform his official duties.

(h) Gross inefficiency in performing duties.

(i) Active participation in any political campaign by supporting or opposing, directly or indirectly, any political candidate, or contributing financially or otherwise, directly

HeinOnline -- 1967 vol. I 105 1967

or indirectly, to the success or defeat of any political party or candidate.

(j) Willful disobedience of rules and regulations adopted by the board, governing the conduct and discipline of members of the patrol.

Method of preferring charges.

(7) Method of preferring charges. (a) The charge or charges against any *patrolman* shall be made in writing and shall be signed and sworn to by the person making the *charge or charges.*

(b) The written charge or charges shall be filed with the *chief* of the Montana highway patrol.

(c) Any *charge or* charges *which could result in the* suspension or *discharge* of the *chief* or a captain shall be filed directly with the highway patrol board.

Hearing.

(d) When charges are filed and the chief believes that such *charge or* charges constitute grounds for *suspension, demotion or* discharge, he shall order a hearing to be had thereon before the highway patrol board and fix a time for such hearing.

Dismissal of charges.

(e) When charges are filed and the chief believes such charge or charges do not constitute grounds for suspension, demotion or discharge he shall dismiss such charges.

Authority of board.

(f) The highway patrol board shall have the authority to order the chief to file charges with the board when the chief in his judgment does not believe the charge or charges warrant a hearing.

Authority to suspend, demote or discharge.

(8) Authority to suspend, demote or discharge. (a) When the highway patrol chief has cause to believe that any member of the highway patrol has violated any of the hereinabove grounds for suspension, demotion or discharge, or his conduct has warranted reprimanding, he may, with the approval of the Montana highway patrol board, suspend, demote or reprimand the member.

(b) If the chief orders a hearing he may suspend such patrolman pending the rendition of the decision made in such case.

Length of suspension—demotion; pay status.

(9) Length of suspension—demotion pay status. (a) Any member under suspension shall be on leave without pay and for a period not to exceed thirty (30) days in time.

HeinOnline -- 1967 vol. I 106 1967

(b) In cases of disciplinary action resulting in demotion, the member shall receive the pay of the rank to which he is demoted.

(10) Notification of hearing. (a) The chief shall, at least ten (10) days before the time appointed for *a* hearing, *serve* written notice specifying the charge or charges filed and stating the name of the person or persons making the charge or charges, on *the accused patrolman* personally, if his whereabouts is known, in the state of Montana. Notification of hearing—notice.

(b) If at the time, the whereabouts of the *accused patrolman* is unknown, or if he be outside of the state of Montana, service may be made upon him by mailing the written notice to him at his last known place of residence in Montana. Service of notice.

(11) Hearing. (a) The highway patrol board shall be the authority to hear such charge or charges and render a decision and appropriate order. Hearing.

(b) The highway patrol board shall have the power to compel the attendance of witnesses at any such hearing and to examine them under oath and to require the production of books, papers, and other evidence at such hearing and for that purpose issue subpoenas and cause the same to be served and executed in any part of the state. Witnesses.

(c) The accused *patrolman* shall be entitled to be confronted with the witnesses against him and have an opportunity to cross-examine the same and to introduce at such hearing testimony in his own behalf and shall be entitled to be represented by counsel at such hearing. Confrontation.

(d) The highway patrol board shall within fifteen (15) days after such hearing render its decision in writing and file same in its office with the *chief* and with the *patrolman* accused also. Decision.

(12) Disciplinary action. (a) If, after *a* hearing, the highway patrol board finds that any such charge or charges, made against the *patrolman be* true, it may punish the offending party by reprimand, suspension without pay, demotion, or *discharge.* Disciplinary action.

(b) If after the hearing, the highway patrol board finds that the charge or charges made against the patrolman not Reinstatement.

HeinOnline -- 1967 vol. I 107 1967

be true, the board shall reinstate the accused patrolman to his position and rank and shall order the payment of any salary withheld pending the determination of the charge or charges.

Right to appeal—judicial review.

(13) Right to appeal. (a) Any *patrolman* who is suspended, demoted, or *discharged* may have a right of appeal to the district court of Lewis and Clark county.

(b) Such appeal must be made within ten (10) days after such decision or determination of the highway patrol board.

(c) The district court shall review such decision or determination in a summary manner and shall render its decision upon such appeal within ninety (90) days from the filing of such appeal in said court.

(d) If *the* decision or determination of the highway patrol board shall be finally reversed or modified by *the district* court, the *accused patrolman* shall be reinstated in his position and the highway patrol board shall pay to the said *patrolman* any salary or wages withheld from him pending the determination of the charge or charges, or as may be directed by the court."

Approved: February 18, 1967.

CHAPTER 56

An Act to Amend Section 16-912, R.C.M. 1947, Providing Per Diem Payments in Lieu of Mileage May Be Paid to County Commissioners Living More Than Fifty (50) Miles From the County Seat.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 16-912, R.C.M. 1947, is amended to read as follows:

Compensation of board members.

"16-912. **Compensation of members of board.** Each member of the board of county commissioners in counties of the first, second, third, and fourth class, shall receive an annual salary as hereinafter set forth:

First class $5,600

Second class $5,475

HeinOnline -- 1967 vol. I 108 1967

Third class $5,375

Fourth class $5,275

Each member of the board of county commissioners in all other counties is entitled to twenty dollars ($20) per day for each day's attendance on the sessions of the board, and eight cents ($.08) per mile for the distance necessarily traveled in going to and returning from the county seat and his place of residence each day that such trip is actually made, *provided, however, that any county commissioner whose place of residence is fifty (50) miles or more from the county seat, as measured by the usual route of travel, may elect to receive mileage as provided in this section or, in lieu of mileage, a sum of ten dollars ($10) per day for each day's attendance on sessions of the board as expenses,* while engaged in the performance of his official duties, and no other compensation must be allowed.

Election of mileage or expenses.

Salaries of the members of the board of county commissioners of a county shall not be changed during the entire term for which such members are elected, regardless of any change in the classification of the county during such term. If a vacancy occurs on the board of county commissioners, the person who is appointed and/or elected to fill the unexpired term shall receive the same salary as the person vacating the office."

Salaries not to be changed during term.

Approved: February 18, 1967.

CHAPTER 57

An Act Amending Section 75-1637, R.C.M. 1947, to Provide That School Trustees May Contract, Without Advertisement and Calling for Bids, If the Amount Involved is Less Than Eight Hundred Dollars ($800) for Third Class Districts Maintaining One or Two Room Schools, Less Than One Thousand Five Hundred Dollars ($1,500) for Other Third Class Districts, or Less Than Two Thousand Five Hundred Dollars ($2,500) for First and Second Class Districts.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 75-1637, R.C.M. 1947, is amended to read as follows:

Amending clause.

HeinOnline -- 1967 vol. I 109 1967

Trustees not to be interested in letting contracts and furnishing supplies.

"75-1637. **Letting contracts and furnishing supplies, trustees not to be interested in—advertising for bids required, when.** It shall be unlawful for any school trustee to have any pecuniary interest, either directly or indirectly, in the erection of any schoolhouses, or for warming, ventilating, furnishing, or repairing the same, or be in any manner connected with the furnishing of supplies for the maintenance of the schools, or to receive or to accept any compensation or reward for services rendered as trustees, except as hereinbefore provided. No board of trustees shall let any contract for building, furnishing, repairing, or other work, for the benefit of the district, without first advertising in a newspaper published in the county for at least two (2) weeks, calling for bids to perform such work, except:

No board to contract without bids—exceptions.

(a) A board of trustees of third class school districts maintaining one (1) or two (2) room elementary schools, may contract, without advertising and without bids, where the amount involved is not more than *eight hundred dollars ($800)*;

(b) A board of trustees of third class school districts, other than those mentioned in subparagraph (a) may contract, without advertising and without bids, where the amount involved is not more than *fifteen hundred dollars ($1,500)*;

(c) A board of trustees of districts of the first and second class, may contract without advertising and without bids where the amount involved is not more than *two thousand five hundred dollars ($2,500)*;

Lowest bidder—rejection.

In all cases where advertising is required, the board shall award the contract to the lowest responsible bidder; provided, however, that the board of school trustees shall have the right to reject any and all bids."

Approved: February 18, 1967.

CHAPTER 58

An Act to Authorize the Board of Trustees of a School District, County High School, Junior College, or Community College to Purchase Liability Insurance for the

HeinOnline -- 1967 vol. I 110 1967

Death, Injury, or Disability of Any Human Being or for Damage to Property.

Be it enacted by the Legislative Assembly of the State of Montana:

Authorization to purchase liability insurance.

Section 1. (1) The board of trustees of a school district, county high school, junior college, or community college may purchase insurance coverage for the school district, school officials, and employees against liability for the death, injury or disability of any person or damage to property.

Payment of insurance premiums.

(2) If insurance is purchased as authorized by this act, the board of trustees shall pay the insurance premium costs out of the school general fund.

Applicability clause.

(3) That the provisions of Section 40-4402, the Revised Codes of Montana 1947, are applicable to this act.

Approved: February 20, 1967.

CHAPTER 59

An Act Amending Section 45-401, R.C.M. 1947, Relating to Loggers' Liens, to Entitle Partnerships, Corporations and Associations to the Protection of Such Liens.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 45-401, R.C.M. 1947, is amended to read as follows:

Who entitled to lien.

"45-401. **Who entitled to lien.** Every person, *general partnership, limited partnership, corporation or association* performing labor upon, or who shall assist in obtaining or securing sawlogs, piling, railroad ties, cordwood, or other timber, has a lien upon the same and upon all other sawlogs, piling, railroad ties, cordwood, or other timber which, at the time of the filing of the claim or lien hereinafter provided, belonged to the person or corporation for whom the labor was performed, for the work or labor done upon or in obtaining or securing the particular sawlogs, piling, railroad ties, cordwood, or other timber in said claim or lien described, whether such work or labor was done at the instance of the owner of the same or his agent, or a contractor or subcontractor, or any person in behalf of such owner or his agent, or a contractor or subcon-

HeinOnline -- 1967 vol. I 111 1967

tractor. The cook in a logging-camp shall be regarded as a person who assists in obtaining or securing any of the timber herein mentioned."

Approved: February 20, 1967.

CHAPTER 60

An Act to Provide That Applicants for Public Assistance Under Chapter 6, Title 71, R.C.M. 1947, (Aid to Needy Blind), Under Chapter 14, Title 71, R.C.M. 1947, (Services to the Blind), and Applicants for Vendor Medical Payments Need Not Agree That the Amount of Assistance Received Shall Be Secured by a Lien on the Applicant's Real Property, Amending Section 71-241, R.C.M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 71-241, R.C.M. 1947, is amended to read as follows:

Agreement for lien on real property of some recipients of public assistance—excluded.

"71-241. **Agreement for lien on real property of** *some* **recipients of public assistance.** No application for a public assistance grant except applications made pursuant to chapter 5, Title 71, Revised Codes of Montana, 1947, (aid to dependent children), chapter 3, Title 71, Revised Codes of Montana, 1947 (general relief), *chapter 6, Title 71, Revised Codes of Montana, 1947, (aid to needy blind) and chapter 14, Title 71, Revised Codes of Montana, 1947, (services to the blind),* and for vendor medical payments in behalf of individuals, shall be approved unless the applicant shall execute and deliver with such application an agreement, in such form as the state board of public welfare shall prescribe, acknowledging and agreeing that the amount of all assistance thereafter paid to the applicant, from whatever source such assistance may be derived, shall constitute an obligation and indebtedness of the applicant to the state and county which shall be secured by a lien upon all real property of the applicant then owned or acquired while a recipient of such assistance."

Approved: February 20, 1967.

HeinOnline -- 1967 vol. I 112 1967

CHAPTER 61

An Act to Suspend the Running of Statutes of Limitations, When Taxpayer's Federal Return is Changed and Taxpayer Fails to Report the Change, in Order to Allow the State of Montana Opportunity to Collect Additional Taxes, If Any, That Are Warranted by the Change in Taxpayer's Federal Return; Amending Sections 84-4920.1 and 84-4938, R.C.M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 84-4920.1, R.C.M. 1947, is amended to read as follows: Amending clause.

"84-4920.1. **Suspension of running of statute of limitations—grounds.** The running of the statute of limitations *provided for under section 84-4920* shall be suspended during any period that the federal statute of limitations for collection of federal *income* tax has been suspended by (1) written agreement signed by the taxpayer or, (2) when the taxpayer has instituted an action which has the effect of suspending the running of the federal statute of limitations, and for one (1) additional year. *If the taxpayer fails to file a report of changes in federal taxable income or an amended return as required by section 84-4938, the said statute of limitations shall not apply until five years from the date the federal changes become final or the amended federal return was filed.* If the taxpayer omits from *gross* income an amount properly includable therein which is in excess of twenty-five percent *(25%)* of the amount of *adjusted gross* income stated in the return *the said statute of limitations shall not apply for two additional years from the time specified in section 84-4920.*" Suspension of running of statute of limitations—grounds.

Section 2. That Section 84-4938, R.C.M. 1947, is amended to read as follows: Amending clause.

"84-4938. **Furnishing copy of federal return,** *copies of federal corrections, and filing amended return required.* Every taxpayer shall upon request of the board, furnish a copy of the return for the corresponding year which he has filed or may file with the federal government showing his net income and how obtained and the several sources from which derived. *If the amount of a taxpayer's taxable income is changed or corrected by the United States Internal Revenue Service or other competent authority, the taxpayer shall report such change or correction to the board* Furnishing copy of federal return —corrections and amendments.

HeinOnline -- 1967 vol. I 113 1967

within ninety days after receiving notice thereof. If a taxpayer files an amended federal income tax return changing or correcting his federal taxable income for any taxable year, he shall also file an amended return with the state board of equalization within ninety days thereafter. The board shall supply all necessary forms and shall return all such forms to the taxpayer after they have been examined by the board, upon the request of the taxpayer."

Effective immediately.

Section 3. This act is effective on its passage and approval.

Approved: February 20, 1967.

CHAPTER 62

An Act to Make the Determination of Income Tax Correspond More Closely with Provisions of the Internal Revenue Code Which Pertain to the Determination of Taxable Year; Amending Section 84-4901, R.C.M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That Section 84-4901, Revised Codes of Montana, 1947, is amended to read as follows:

Definitions.

"84-4901. **Income tax—definitions.** For the purpose of this act unless otherwise required by the context:

"Board."

(1) The word "board" means the state board of equalization.

"Taxpayer."

(2) The word "taxpayer" includes any person or fiduciary, resident or nonresident, subject to a tax imposed by this act, and does not include corporations.

"Taxable year."

(3) *The term "taxable year" means the taxpayer's taxable year for federal income tax purposes.*

"Fiduciary."

(4) The word "fiduciary" means a guardian, trustee, executor, administrator, receiver, conservator, or any person whether individual or corporate, acting in any fiduciary capacity for any person, trust or estate.

"Paid."

(5) The word "paid" for the purposes of the deductions and credits under this act means paid or accrued or paid or incurred, and the terms "paid or incurred" and

HeinOnline -- 1967 vol. I 114 1967

"paid or accrued" shall be construed according to the method of accounting upon the basis of which the *taxable income* is computed under this act. The term "received" for the purpose of computation of *taxable income* under this act, means received or accrued and the term "received or accrued" shall be construed according to the method of accounting upon the basis of which the *taxable income* is computed under this act. "Received."

(6) The word "resident" applies only to natural persons and includes for the purpose of determining liability to the tax imposed by this act with reference to the income of any taxable year, any person domiciled in the state of Montana, and any other person who maintains a permanent place of abode within the state even though temporarily absent from the state and has not established a residence elsewhere. "Resident."

(7) The word "dividend" means any distribution made by a corporation out of its earnings or profits to its shareholders or members, whether in cash or in other property or in stock of the corporation, other than stock dividends as herein defined. "Stock dividends" means new stock issued, for surplus or profits capitalized, to shareholders in proportion to their previous holdings. "Dividend." "Stock dividends."

(8) The words "foreign country" or "foreign government" *mean* any jurisdiction other than *the* one embraced within the United States, *its territories and possessions.* "Foreign country."

(9) The words "information agents" include all individuals, corporations, associations and partnerships, in whatever capacity acting, including lessees, or mortgagors of real or personal property, fiduciaries, employers, and all officers and employees of the state, or of any municipal corporation or political subdivision of the state, having the control, receipt, custody, disposal or payment of interest, rent, salaries, wages, premiums, annuities, compensations, remunerations, emoluments, or other fixed or determinable annual or periodical gains, profits and income with respect to which any person or fiduciary is taxable under this act. "Information agents."

(10) The term "net income" means the *adjusted* gross income of a taxpayer less the deductions allowed by this act. "Net income."

HeinOnline -- 1967 vol. I 115 1967

"Taxable income." (11) The term "taxable income" means the *adjusted* gross income of a taxpayer less the deductions and exemptions provided for in this act."

Effective immediately. Section 2. This act is effective on its passage and approval.

Approved: February 20, 1967.

CHAPTER 63

An Act to Repeal Section 48-151, R.C.M. 1947, Relating to a Waiting Period After Divorce.

Be it enacted by the Legislative Assembly of the State of Montana:

Repealing clause. Section 1. Section 48-151, R.C.M. 1947, is repealed.

Approved: February 20, 1967.

CHAPTER 64

An Act to Provide that the County Clerks of the District Courts May Take Out Membership in Certain Organizations at the Expense of the County.

Be it enacted by the Legislative Assembly of the State of Montana:

Clerks of court authorized to be members of associations. Section 1. The county clerks of the district court of the counties of the state of Montana are hereby authorized and empowered to take out county membership in, and to cooperate with, associations and organizations of county clerks of the district courts of this state and of other states for the furtherance of good government and the protection of county interests, and to pay for such membership in such associations or organizations out of county funds.

Approved: February 20, 1967.

CHAPTER 65

An Act to Amend Section 27-308, R.C.M. 1947, Changing the Compensation Allowed Members of the Montana State Board of Food Distributors.

HeinOnline -- 1967 vol. I 116 1967

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That section 27-308, R.C.M. 1947, be and the same is hereby amended to read as follows: Amending clause.

"27-308. **Per diem of members of the board.** Each member of the board shall receive *twenty* dollars *($20)* per day for his actual services as such, and his necessary expenses in attending meetings." Per diem of board members.

Approved: February 20, 1967.

CHAPTER 66

An Act Amending Section 25-508, R.C.M. 1947, Pertaining to Traveling Expenses of Officers Attending Conventions; Providing that County Clerks of District Courts Shall Be Allowed Transportation Expenses and Per Diem for Attendance at Annual Convention.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 25-508, R.C.M. 1947, is amended to read as follows: Amending clause.

"25-508. (443) **Traveling expenses of officers attending conventions.** Travel expenses of officers at conventions.

(1) Hereafter no state, county, city or school district officer or employee of the state or of any county or city, or of any school district, shall receive payment from any public funds for traveling expenses or other expenses of any sort or kind for attendance upon any convention, meeting, or other gathering of public officers save and except for attendance upon such convention, meeting or other gatherings as said officer or employee may by virtue of his office find it necessary to attend, and provided further, that the board of trustees of any county or district high school or of any school district may by resolution adopted by a majority of the entire board make their district a member of any state association of school districts or school district trustees, or any other strictly educational association and authorize the payment of dues to such association, and the necessary traveling expenses of employees, or members of said board, to attend meetings of such association, or other meetings called for the express purpose of considering educational matters. Public employees.

HeinOnline -- 1967 vol. I 117 1967

County commissioners.

(2) Provided, further, three (3) members of the board of county commissioners may be allowed actual transportation expenses and per diem for attendance upon any general meeting of county commissioners or assessors held within the state not oftener than once a year and the proportionate expenses and charges against each county as a member of such association shall also be paid; provided also that county attorneys and sheriffs are hereby authorized to attend their respective meeting or convention held within the state and are allowed actual traveling expenses not oftener than once a year for attending same.

Not to prevent public agencies from participating in organizations.

(3) Provided, further, that nothing herein shall be construed to prevent any city or town council, commission or other governing body from paying membership fees and dues in any organization of city and town officials whose purpose is improvement of laws relating to city and town government and their better and more economical administration, and the necessary expense of any regular officer or employee of such city or town in attending any convention or meeting of such organization upon the direction of such council, commission, or other governing body by order upon its minutes stating that the public interest requires such attendance; such payment of membership fees, dues and/or expenses to be made from such fund of the city or town as the council, commission or other governing body shall direct by such order, upon claim presented, audited and allowed as are other claims against such city or town.

County clerk and recorders to receive travel expenses.

(4) Provided, further, that all county clerk and recorders of the various counties throughout the state of Montana shall be allowed actual transportation expenses and per diem allowance for attendance upon any general meeting of the Montana association of county clerk and recorders held within the state, not oftener than once a year, and the proportionate expenses and charges against each county as a member of such association shall be paid by such county.

Clerks of court to receive travel expenses.

(5) Provided, further, that all county clerks of the district court of the various counties throughout the state of Montana shall be allowed actual transportation expenses and per diem allowance for attendance upon any general meeting of the Montana association of clerks of court held within the state, not oftener than once a year, and the pro-

HeinOnline -- 1967 vol. I 118 1967

portionate expenses and charges against each county as a member of such association shall be paid by such county."

Approved: February 20, 1967.

CHAPTER 67

An Act Relating to Surety Bonds for City or Town Officers and Employees; Providing That the City Council or Commissioners Shall Purchase All Surety Bonds for City or Town Officers and Employees; Establishing Requirements and Procedures for the Purchase of Such Bonds; Amending Section 11-3244, R.C.M. 1947, by Deleting the Bonding Provisions for County Commissioners; and Repealing Sections 11-722, 11-723, 11-3124, 11-3324 and 40-1727, R.C.M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Purchase of surety bonds—to cover.

Section 1. The city or town council or commissioners shall purchase all surety bonds for city officers and employees. A bond may cover an individual officer or employee or a blanket bond may cover all officers and employees, or any group or combination of officers and employees.

Employees to be bonded.

Section 2. All elected or appointed city or town officers and employees shall be bonded in such sums as the ordinance may require. The amount for which a city or town officer or employee shall be bonded shall be based on the amount of money or property handled and the opportunity for defalcation. The city or town council or commission shall actively solicit offers on a competitive basis from available qualified insurance or surety companies before purchasing the bonds.

Amount of bonds.

Section 3. The amount for which any city or town officer or employee or group of officers or employees shall be bonded shall be subject to the supervision of the state examiner. If the state examiner determines that the amount of the bond is inadequate he may require the city or town council or commission to purchase an adequate bond.

Bonds to be executed by.

Section 4. Bonds purchased by the city or town council or commission shall be executed by responsible insurance

HeinOnline -- 1967 vol. I 119 1967

or surety companies authorized and admitted to execute surety bonds in this state.

Form.

Section 5. The form of bonds for city or town officers and employees must be approved by the city or town attorney and filed and recorded in the office of the city or town clerk.

Requirements.

Section 6. All official bonds covering a group of city or town officers or employees shall be made upon the same conditions as are required of a principal under section 6-306, R.C.M. 1947, except that the bond need not be signed by each officer and employee.

Premiums.

Section 7. The premiums for all surety company bonds shall be a proper charge against the budget or budgets of the city or town general fund, or against the budget or budgets of those city or town funds, where the officer or employee renders service.

Form of city government.

Section 8. This act applies to the bonding of all elected or appointed officers and employees under the commission form of city government and to the commission-manager form of city government.

Amending clause.

Section 9. Section 11-3244, R.C.M. 1947, is amended to read as follows:

Oath and bond.

"11-3244. **Oath and bond of commissioners.** Every person who has been declared elected commissioner, shall within ten (10) days thereafter take and file with the clerk of the commission his oath of office in the form and manner provided by law."

Saving clause.

Section 10. This act shall not affect the validity of bonds in effect on the effective date of this act.

Repealing clause.

Section 11. Sections 11-722, 11-723, 11-3124, 11-3324, and 40-1727 are repealed.

Approved: February 20, 1967.

CHAPTER 68

An Act Relating to Surety Bonds for County Officers and Employees; Providing That the Board of County Commissioners Shall Purchase All Surety Bonds for County Officers and Employees; Establishing Requirements

HeinOnline -- 1967 vol. I 120 1967

and Procedures for the Purchase of Such Bonds; Amending Section 16-3204, R.C.M. 1947, by Deleting the Bonding Provisions for County Auditors; and Repealing Sections 6-201, 6-202, 6-302, 6-336, 16-904, 16-3602, 40-1727, and 93-407, R.C.M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Surety bonds for county officers and employees—purchase.

Section 1. The board of county commissioners shall purchase all surety bonds for county officers and employees. A bond may cover an individual officer or employee or a blanket bond may cover all officers and employees, or any group or combination of county officers and employees.

Bonding—amount.

Section 2. All elected and appointed county officers and employees shall be bonded. The amount for which a county officer or employee shall be bonded shall be based on the amount of money or property handled and the opportunity for defalcation. The board of county commissioners shall actively solicit offers on a competitive basis from available qualified insurance or surety companies before purchasing the bonds.

State examiner to supervise.

Section 3. The amount for which any county officer or employer or group of officers or employees shall be bonded shall be subject to the supervision of the state examiner. If the state examiner determines that the amount of the bond is inadequate, he may require the board of county commissioners to purchase an adequate bond.

Bonds to be purchased from responsible company.

Section 4. Bonds purchased by the board of county commissioners shall be executed by responsible insurance or surety companies authorized and admitted to execute surety bonds in this state.

Premiums—charge against budgets.

Section 5. The premiums for all surety company bonds shall be a proper charge against the budgets of the county general fund or against the budget or budgets of those county funds where the officer or employee renders service.

Form.

Section 6. The form of bonds for county officers and employees must be approved by the county attorney and filed and recorded in the office of the county clerk and recorder.

HeinOnline -- 1967 vol. I 121 1967

Requirements of principal.

Section 7. All official bonds covering a group of county officers or employees shall be made upon the same conditions as are required of a principal under section 6-306, R.C.M. 1947, except that the bond need not be signed by each officer or employee.

Saving clause.

Section 8. This act shall not affect the validity of bonds in effect on the effective date of this act.

Amending clause.

Section 9. Section 16-3204, R.C.M. 1947, is amended to read as follows:

Oath—bond.

"16-3204. **Oath—bond.** Any person who shall be elected or appointed to the office of county auditor shall, before entering upon the duties of said office, take and subscribe such an oath as is required of other county officers."

Repealing clause.

Section 10. Sections 6-201, 6-202, 6-302, 6-336, 16-904, 16-3602, 40-1727, and 93-407, R.C.M. 1947, are hereby repealed.

Approved: February 20, 1967.

CHAPTER 69

An Act Amending Sections 71-106 and 71-222, R.C.M. 1947, to Eliminate the Per Capita Tax or Poll Tax of Two Dollars ($2) for the County Poor Fund and to Increase Poor Fund Levy to Seventeen (17) Mills.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 71-106, R.C.M. 1947, is amended to read as follows:

Support of poor and indigent—tax.

"71-106. **Support of poor and indigent persons—tax levy.** The board of county commissioners has jurisdiction and power under such limitations and restrictions as are prescribed by law:

To provide for the care and maintenance of the indigent sick, except as otherwise provided in other parts of this act, or the otherwise dependent poor of the county; erect and maintain hospitals therefor, or otherwise provide for the same, and for said purposes to levy and collect annually a tax on property not exceeding *seventeen (17)*

17 mills.

HeinOnline -- 1967 vol. I 122 1967

mills, which levy shall be made at the time other tax levies are made on property, as provided by law."

Amending clause.

Section 2. Section 71-222, R.C.M. 1947, is amended to read as follows:

Millage taxes to be levied—expenditures—budgets.

"71-222. ***Millage* taxes to be levied — expenditures — budgets.** It is hereby made the duty of the board of county commissioners in each county to levy *seventeen (17) mills* for the county poor fund as provided by law, or so much thereof as may be necessary. The board shall budget and expend so much of the funds in the county poor fund for all purposes of this act as will enable the county welfare department to pay the general relief activities of the county and to reimburse the state department of public welfare for the county's proportionate share of the administrative costs of the county welfare department and of all public assistance and its proportionate share of any other welfare activity that may be carried on jointly by the state and the county.

Accounts.

The amounts set up in the budget for the reimbursements to the state department shall be sufficient to make all of these reimbursements in full. The budget shall make separate provision for each one of these public assistance activities, and proper accounts shall be established for the funds for each and all of such activities.

Recommendations of budget by state administrator.

As soon as the preliminary budget provided for in section 16-1903 has been agreed upon, a copy thereof shall without delay be mailed to the state administrator of public welfare, and it shall be his duty, at any time before the final adoption of the budget, to make such recommendations with regard to changes in any part of the budget relating to the county poor fund as is deemed necessary in order to enable the county to discharge its obligations under the Public Welfare Act.

Findings and changes.

The state administrator shall promptly examine the preliminary budget so submitted to him in order to ascertain if the amounts provided for reimbursements to the state department are likely to be sufficient, and shall notify the county clerk of his findings. It is hereby made the duty of the board to make such changes in the amounts provided for reimbursements, if any are required, that the county will be able to make the reimbursements in full.

HeinOnline -- 1967 vol. I 123 1967

Commissioners not to transfer without statement.

The board of county commissioners shall not have the right to make any transfer from the amounts budgeted for reimbursing the state department without having first obtained a statement in writing from the state administrator of public welfare to the effect that the amount to be transferred will not be required during the fiscal year for the purposes for which the amounts were provided in the budget.

General relief expenditures primary expenditure for county building—when.

No part of the county poor fund, irrespective of the source of any part thereof, shall be used directly or indirectly for the erection or improvement of any county building so long as the fund is needed for general relief expenditures by the county or is needed for paying the county's proportionate share of public assistance or its proportionate share of any other welfare activity that may be carried on jointly by the state and the county; provided, however, that expenditures for improvement of any county buildings used directly for care of the poor may be made out of any moneys in the county poor fund, whether such moneys are produced by *seventeen (17)* mill levy provided for in paragraph one *(1)* of this section or from any additional levy authorized or to be authorized by law. Such expenditure shall be authorized only when any county building used for the care of the poor must be improved in order to meet legal standards required for such buildings by the state board of health, and, when such expenditure has been approved by the state public welfare department."

Repealing clause.

Section 3. All acts and parts of acts in conflict with the provisions of this act are repealed.

Approved: February 20, 1967.

CHAPTER 70

An Act Amending Section 92-614, R.C.M. 1947, Providing for Extraterritorial Application of the Workmen's Compensation Act; Providing for Reciprocity with Other States; and Providing for the Administration of Such Extraterritorial and Reciprocity Provisions.

Be it enacted by the Legislative Assembly of the State of Montana:

HeinOnline -- 1967 vol. I 124 1967

Section 1. Section 92-614, R.C.M. 1947, is amended to read as follows:

Amending clause.

"92-614. **Who liable for injuries under the different plans of act and in what amounts,** *extraterritorial application and reciprocity.* Every employer who shall become bound by and subject to the provisions of compensation plan number one *(1),* and every employer and insurer who shall become bound by and subject to the provisions of compensation plan number two *(2),* and the industrial accident fund where the employer of the injured employee has become bound by and subject to the provisions of compensation plan No. 3, shall be liable for the payment of compensation in the manner and to the extent hereinafter provided to an employee who has elected to come under this act, and who shall receive an injury arising out of and in the course of his employment, or, in the case of his death from such injury, to his beneficiaries, if any; or, if none, to his major dependents, if any; or, if none, to his minor dependents, if any.

Liability for injuries under plans of act—amounts—extraterritorial applications and reciprocity.

If a workman employed in this state who is subject to the provisions of this act temporarily leaves the state incidental to that employment and receives an injury arising out of and in the course of such employment, the provisions of this act shall apply to such workman as though he were injured within this state.

If workman temporarily leaves state.

If a workman from another state and his employer from another state are temporarily engaged in work within this state, this act shall not apply to them

Workman from another state—when not covered.

(a) if the employer and employee are bound by the provisions of the Workmen's Compensation Law or similar law of such other state which applies to them while they are in the state of Montana, and

(b) if the Workmen's Compensation Act of this state is recognized and given effect as the exclusive remedy for workmen employed in this state who are injured while temporarily employed in such other state.

A certificate from an authorized officer of the workmen's compensation department or similar agency of another state certifying that an employer of such other state is bound by the Workmen's Compensation Act of the state and that its act will be applied to employees of the employer while in the state of Montana shall be prima facie evidence

HeinOnline -- 1967 vol. I 125 1967

of the application of the Workmen's Compensation Law of the certifying state.

Authority of board to enter into agreements.

The industrial accident board shall have authority, with the approval of the governor, to enter into agreements with workmen's compensation agencies of other states for the purpose of promulgating regulations not inconsistent with the provisions of this act to carry out the extraterritorial application of the Workmen's Compensation Laws of the agreeing states."

Approved: February 20, 1967.

CHAPTER 71

An Act to Amend Section 40-2821, R.C.M. 1947, by Extending the Period When the Tax on Net Insurance Premiums Shall Be Two and One-quarter Percent (2¼%) of the Premiums from the Calendar Years 1965 and 1966 to the Calendar Years 1967 and 1968.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 40-2821, R.C.M. 1947, is amended to read as follows:

Tax—reports of authorized insurers—filing.

"40-2821. **Tax.** (1) Each authorized insurer, and each formerly authorized insurer with respect to premiums so received while an authorized insurer in this state, shall file with the commissioner, on or before March 1 each year, a report (except as to wet marine and transportation insurance taxed under subsection (3) below) in form as prescribed by the commissioner showing total direct premium income including policy, membership and other fees, premiums paid by application of dividends, refunds, savings, savings coupons, and similar returns or credits to payment of premiums for new or additional or extended or renewed insurance, charges for payment of premium in installments, and all other consideration for insurance from all kinds and classes of insurance whether designated as a premium or otherwise, received by it during the preceding calendar year on account of policies covering property, subjects, or risks located, resident, or to be performed in Montana (with proper proportionate allocation of premium as to such property, subjects, or risks in Montana insured under policies or contracts cov-

HeinOnline -- 1967 vol. I 126 1967

ering property, subjects, or risks located or resident in more than one state), after deducting from such total direct premium income applicable cancellations, returned premiums, the unabsorbed portion of any deposit premium, the amount of reduction in or refund of premiums allowed to industrial life policyholders for payment of premiums direct to an office of the insurer, all policy dividends, refunds, savings, savings coupons and other similar returns paid or credited to policyholders with respect to such policies. As to title insurance 'premium' includes only the risk portion of the charge for such insurance. No deduction shall be made of the cash surrender values of policies. Considerations received on annuity contracts shall not be included in total direct premium income and shall not be subject to tax.

Title insurance premium.

Annuity contracts.

(2) Coincident with the filing of the tax report referred to in subsection (1) above, each such insurer shall pay to the commissioner a tax upon such net premiums, the tax to be computed at the rate of two percent (2%) of such premiums; provided that for each of the calendar years *1967* and *1968* the tax shall be computed at the rate of two and one-quarter percent (2¼%) of such premiums.

Payment of tax on net premium.

Provided, that where any insurer has not less than fifty percent (50%) of its paid-in capital stock invested in Montana securities, the insurer shall be allowed to deduct whatever tax it may have already paid to the state of Montana and its political subdivisions, during the same calendar year as to which premium tax is being paid, from the amount otherwise due under this section. For the purpose of this provision 'paid-in capital stock' as to a mutual or reciprocal insurer shall be deemed to be an amount equal to ten percent (10%) of the insurer's assets; and 'Montana securities' shall be deemed to include only general obligations of the state of Montana or of its political subdivisions, mortgage loans secured by a first lien upon real estate located in Montana, and real estate located in Montana owned by the insurer, all if otherwise lawful investments of the insurer under this code.

Capital stock invested in Montana securities—deductions.

Paid-in capital stock.

Montana securities.

(3) (a) On or before March 1 of each year each insurer shall file with the commissioner, on forms as prescribed and furnished or accepted by him, a report of its gross underwriting profit on wet marine and transportation insurance, as defined in section 40-2907, written in this state during the calendar year next preceding, and

Report of gross underwriting profit.

HeinOnline -- 1967 vol. I 127 1967

shall at the same time pay to the commissioner a tax of three-quarters *(¾)* of one percent *(1%)* of such gross underwriting profit.

Determination of gross profit.

(b) Such gross underwriting profit shall be ascertained by deducting from the net premiums (i. e., gross premiums less all return premiums and premiums for reinsurance) on such wet marine and transportation insurance contracts the net losses paid (i. e., gross losses paid less salvage and recoveries on reinsurance ceded) during such calendar year under such contracts. In the case of insurers issuing participating contracts, such gross underwriting profit shall not include for computation of the tax prescribed by this subsection (3) the amounts refunded, credited or paid as participation dividends or savings by such insurers to the holders of such contracts.

Tax paid on fire insurance.

(4) That portion of the tax paid hereunder by an insurer on account of premiums received for fire insurance shall be separately specified in the report as required by th commissioner, for apportionment as provided by law. Where insurance against fire is included with insurance of property against other perils at an undivided premium, the insurer shall make such reasonable allocation from such entire premium to the fire portion of the coverage as shall be stated in such report and as may be approved or accepted by the commissioner.

Tax under this section in lieu of other taxes.

(5) With respect to authorized insurers the premium tax provided by this section shall be payment in full and in lieu of all other demands for any and all state, county, city, district, municipal, and school taxes, licenses, fees and excises of whatever kind or character, excepting only those prescribed by this code, taxes on real and tangible personal property located in this state and taxes payable under section 82-1231, Revised Codes of Montana, 1947 (tax for support of state fire marshal activities), and demands for state, county, city, district, municipal, and school taxes, licenses, fees, and excises made because of operations prior to January 1, 1957.

Power of state to tax.

(6) The state of Montana hereby preempts the field of imposing excise, privilege, franchise, income, license, and similar taxes, licenses, and fees upon insurers and their general agents and agents as such, and on the intangible property of insurers or such agents; and no county, city, municipality, district, school district, or

HeinOnline -- 1967 vol. I 128 1967

other political subdivision or agency in Montana shall levy upon insurers, or upon their general agents and agents as such, any such tax, license, or fee additional to such as are levied by the legislative assembly of Montana in this code.

Suspension or revocation of certificate of authority.

(7) The commissioner may suspend or revoke the certificate of authority of any insurer which fails to pay its taxes as required under this section.

Effective date.

(8) The provisions of this section shall apply to taxable years beginning after December 31, 1960."

Approved: February 20, 1967.

CHAPTER 72

An Act Relating to the Assessment for the Purpose of Taxation of Bank Stock, Moneyed Capital, and Moneys and Credits, in Each County Wherein a Bank Office Is Located and the Payment of Taxes Thereon; Providing for the Furnishing of Certain Information to the County Assessor of Each Such County by the Bank Officials and Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Banks to furnish information on moneys and credits to county assessor.

Section 1. Any state or national bank, banking corporation, or private bank, the stock, moneyed capital, or moneys and credits of which are subject to taxation under the provisions of chapter 3 and chapter 46, title 84, Revised Codes of Montana, 1947, and which has banking offices in more than one (1) county, shall furnish to the assessor of each such county the information required of it by chapter 46, title 84, Revised Codes of Montana, 1947, together with a statement of the book value of real estate owned and located in the respective counties and a statement of the deposit liability shown by the books of account of said bank at each of its said banking offices at the close of business the day next preceding the first Monday in March; and the aggregate tax on the stock, moneyed capital, and moneys and credits of such bank computed as provided by law shall be assessed by and be paid to the respective counties in the proportion which the amount of the deposit liability shown on the books of

HeinOnline -- 1967 vol. I 129 1967

the office or offices of such bank located in such counties, respectively, shall bear to the total deposit liability of such bank.

Repealing clause.

Section 2. All acts and parts of acts in conflict with this act are hereby repealed.

Effective immediately.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved: February 20, 1967.

CHAPTER 73

An Act Amending Section 25-210, R.C.M. 1947, to Provide That Naturalization Fees Be Paid Over to the County Treasurer for Credit to the General Fund of the County.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 25-210, R.C.M. 1947, is amended to read as follows:

Naturalization fees.

"25-210. **Fees for naturalization.** The clerk of the district court shall collect from every person to whom a final certificate of naturalization is issued, at the time the same is issued, a fee of two dollars and fifty cents *($2.50)*; and no other fee shall be charged for naturalization papers, or for the record thereof. *All fees must be accounted for and paid to the county treasurer as provided by section 25-203 of this code, and shall be credited to the general fund of the county.*"

Approved: February 20, 1967.

CHAPTER 74

An Act to Amend Section 53-101, Revised Codes of Montana, 1947, Relating to the Duties of the Registrar of Motor Vehicles.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 53-101, Revised Codes of Montana, 1947, is amended to read as follows:

HeinOnline -- 1967 vol. I 130 1967

"53-101. **Duties of registrar of motor vehicles — records.** Duties of registrar— records.

1. The warden of the state penitentiary shall be, and is hereby constituted the registrar of motor vehicles, trailers and semitrailers, and as such it shall be his duty to keep a record as hereinafter specified of all motor vehicles, trailers and semitrailers of every kind, and certificates of registration and ownership thereof, *and* of all dealers in motor vehicles.

2. In the case of motor vehicles, trailers and semitrailers, the record shall show the following: Name of owner, residence by town and county, business address, name and address of conditional sales vendor, mortgagee or other lien holder and amount due under contract or lien, manufacturer of car, manufacturer's designation of style of car or vehicle, identifying number, year of manufacture, character of motive power and shipping weight of car as shown by the manufacturer and the distinctive license number assigned such car or vehicle; and, if a truck or trailer, the number of tons capacity, and such other information as may from time to time be found desirable. Record to show.

3. The registrar shall file applications for registration received by him from the county treasurers of the state and register the vehicles therein described and the owners thereof in suitable books or on index cards, as follows: File applications for registration.

(a) Under distinctive license number assigned to vehicle by the county treasurers.

(b) Alphabetically under name of owners.

(c) Numerically under make and identifying number of vehicle.

(d) Such other index of registration as registrar shall deem expedient.

4. In the case of dealers the records shall show the information contained in the application for dealer's license as required by section 53-118, as well as the distinctive license number assigned to the dealer. Dealer records.

5. The registrar of motor vehicles shall appoint such deputies, subordinate officers, clerks, investigators and other employees as may be necessary to carry out this Appointment of deputies.

HeinOnline -- 1967 vol. I 131 1967

act, providing there be selected as many of the clerical help from the inmates of the state prison as the registrar determines to be possible. The salaries of all such appointees shall be fixed by the registrar of motor vehicles as authorized by the state board of examiners, with respect to salaries of other subordinate state officers, and employees.

Custody of records and equipment—duties.

6. All office equipment, books, files and records belonging to the motor department shall be in the care and general custody and control of the registrar of motor vehicles at the state penitentiary. In order to prevent an accumulation of records and files which shall have ceased to be of any value the registrar of motor vehicles shall have the authority and it shall be his duty to destroy all correspondence, motor card and application card records after the expiration of five (5) years from the date thereof, and all conditional sales contracts and chattel mortgages and records pertaining thereto after the expiration of five (5) years after the date the same have ceased to be liens on the motor vehicles described therein.

Short-wave radio station.

7. The registrar may establish and maintain a shortwave radio station in order to report motor vehicle registration information to the highway patrol, sheriffs, and to chiefs of police of each incorporated city of the state who are able to communicate with such shortwave radio station.

Records open to inspection.

8. All such records shall be open to inspection during all reasonable business hours and the registrar of motor vehicles shall furnish any information from said records upon payment by the applicant of the cost of transcribing the information requested."

Approved: February 20, 1967.

CHAPTER 75

An Act Providing for the Appointment, Qualifications and Duties of the State Entomologist; Providing That Expenses Be Paid Out of the Legislative Appropriation for His Office; and Repealing Section 82-801, 82-802, 82-803 and 82-804, R.C.M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

HeinOnline -- 1967 vol. I 132 1967

State entomologist.

Section 1. **State entomologist of Montana.** The state entomologist of Montana shall be an entomologist who is a member of the resident faculty of the Montana agricultural experiment station at Bozeman, Montana, and who shall be appointed by the dean of the college of agriculture of Montana state university.

Duties.

Section 2. **Duties of the state entomologist.** It shall be the duty of the state entomologist to conduct investigations pertaining to insects and other arthropods which affect or may affect plants and animals. When an injurious infestation of an insect or other arthropod occurs in any part of the state, it shall be his duty, so far as it is possible without conflicting with his other duties, to go to the scene of the infestation or send a suitably qualified assistant. The state entomologist or said assistant shall determine the extent and seriousness of the infestation and make public the best remedies to be employed.

Report.

Section 3. **Biennial report.** The state entomologist shall in odd numbered years make a biennial report on or before the first day of January, which report shall be published by the Montana agricultural experiment station as one of its regular bulletins, and shall contain a report of the work of the office and the insect problems which arose during the biennium.

Expenses.

Section 4. **Expenses.** The state entomologist shall receive no compensation for his services other than that which he may receive from the Montana agricultural experiment station and Montana state university, but such office and laboratory expenses and such salaries of necessary assistants, together with such travel and per diem expenses for himself and assistants incurred in the course of performing the duties prescribed by this act, shall be paid out of sums appropriated from time to time by the legislative assembly of the state of Montana to the state entomologist. Payment shall be made on claims certified by the state entomologist and presented to the appropriate state agency.

Repealing clause.

Section 5. Sections 82-801, 82-802, 82-803 and 82-804, R.C.M. 1947, are repealed.

Effective immediately.

Section 6. This act shall take effect and be in force upon its passage and approval.

Approved: February 20, 1967.

HeinOnline -- 1967 vol. I 133 1967

CHAPTER 76

An Act Relating to Interstate Compact on Juveniles Authorizing the State of Montana to Enter Into a Compact With Any of the United States, Its Territories and Possessions for the Return of Absconding or Escaping Juveniles and Mutual Assistance in Supervision of Juveniles on Probation and Parole; Providing for the Appointment of a Juvenile Court Compact Administrator, Prescribing Powers and Duties; and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Interstate compact on juveniles.

Section 1. The Interstate Compact on juveniles as contained herein is hereby enacted into law and entered into by this state with all other jurisdictions legally joining therein in the form substantially as follows: The contracting states solemnly agree that:

Findings and purposes.

Article I—Findings and purposes

That juveniles who are not under proper supervision and control, or who have absconded, escaped or run away, are likely to endanger their own health, morals and welfare, and the health, morals and welfare of others. The cooperation of the states party to this compact is therefore necessary to provide for the welfare and protection of juveniles and of the public with respect to:

(1) cooperative supervision of delinquent juveniles on probation or parole;

(2) the return, from one state to another, of delinquent juveniles who have escaped or absconded;

(3) the return, from one state to another, of non-delinquent juveniles who have run away from home; and

(4) additional measures for the protection of juveniles and of the public, which any two or more of the party states may find desirable to undertake cooperatively.

Juvenile policies.

In carrying out the provisions of this compact the party states shall be guided by the non-criminal, reformative and protective policies which guide their laws concerning delinquent, neglected or dependent juveniles generally. It shall be the policy of the states party to this compact to cooperate and observe their respective

HeinOnline -- 1967 vol. I 134 1967

responsibilities for the prompt return and acceptance of juveniles and delinquent juveniles who become subject to the provisions of this compact. The provisions of this compact shall be reasonably and liberally construed to accomplish the foregoing purposes.

Article II—Existing rights and remedies

Existing rights and remedies.

That all remedies and procedures provided by this compact shall be in addition to and not in substitution for other rights, remedies and procedures, and shall not be in derogation of parential rights and responsibilities.

Article III—Definitions

Definitions.

That, for the purposes of this compact, "delinquent juvenile" means any juvenile who has been adjudged delinquent and who, at the time the provisions of this compact are invoked, is still subject to the jurisdiction of the court that has made such adjudication or to the jurisdiction or supervision of an agency or institution pursuant to an order of such court; "probation or parole" means any kind of conditional release of juveniles authorized under the laws of the states party hereto; "court" means any court having jurisdiction over delinquent, neglected or dependent children; "state" means any state, territory or possessions of the United States, the District of Columbia, and the commonwealth of Puerto Rico; and "residence" or any variant thereof means a place at which a home or regular place of abode is maintained.

"Delinquent juvenile."

"Probation or parole."

"Court."

"State."

"Residence."

Article IV—Return of runaways

Return of runaways.

(a) That the parent, guardian, person or agency entitled to legal custody of a juvenile who has not been adjudged delinquent but who has run away without the consent of such parent, guardian, person or agency may petition the appropriate court in the demanding state for the issuance of a requisition for his return. The petition shall state the name and age of the juvenile, the name of the petitioner and the basis of entitlement to the juvenile's custody, the circumstances of his running away, his location if known at the time application is made, and such other facts as may tend to show that the juvenile who has run away is endangering his own welfare or the welfare of others and is not an emancipated minor. The petition shall be verified by affidavit, shall be executed in duplicate, and shall be accompanied by

Petition—requirements.

Verification.

HeinOnline -- 1967 vol. I 135 1967

two certified copies of the document or documents on which the petitioner's entitlement to the juvenile's custody is based, such as birth certificates, letters of guardianship, or custody decrees. Such further affidavits and other documents as may be deemed proper may be submitted with such petition. The judge of the court to which this application is made may hold a hearing thereon to determine whether for the purposes of this compact the petitioner is entitled to the legal custody of the juvenile, whether or not it appears that the juvenile has in fact run away without consent, whether or not he is an emancipated minor, and whether or not it is in the best interest of the juvenile to compel his return to the state.

Hearing.

If the judge determines, either with or without a hearing, that the juvenile should be returned, he shall present to the appropriate court or to the executive authority of the state where the juvenile is alleged to be located a written requisition for the return of such juvenile. Such requisition shall set forth the name and age of the juvenile, the determination of the court that the juvenile has run away without the consent of a parent, guardian, person or agency entitled to his legal custody, and that it is in the best interest and for the protection of such juvenile that he be returned. In the event that a proceeding for the adjudication of the juvenile as a delinquent, neglected or dependent juvenile is pending in the court at the time when such juvenile runs away, the court may issue a requisition for the return of such juvenile upon its own motion, regardless of the consent of the parent, guardian, person or agency entitled to legal custody, reciting therein the nature and circumstances of the pending proceeding. The requisition shall in every case be executed in duplicate and shall be signed by the judge. One copy of the requisition shall be filed with the compact administrator of the demanding state, there to remain on file subject to the provisions of law governing records of such court. Upon receipt of a requisition demanding the return of a juvenile who has run away, the court or the executive authority to whom the requisition is addressed shall issue an order to any peace officer or other appropriate person directing him to take into custody and detain such juvenile. Such detention order must substantially recite the facts necessary to the validity of its issuance hereunder. No juvenile detained upon such order shall be delivered over to the officer

Requisition.

Requirements of requisition.

Detention order.

Hearing.

HeinOnline -- 1967 vol. I 136 1967

whom the court demanding him shall have appointed to receive him, unless he shall first be taken forthwith before a judge of a court in the state, who shall inform him of the demand made for his return, and who may appoint counsel or guardian ad litem for him. If the judge of such court shall find that the requisition is in order, he shall deliver such juvenile over to the officer whom the court demanding him shall have appointed to receive him. The judge, however, may fix a reasonable time to be allowed for the purpose of testing the legality of the proceeding.

Information.

Upon reasonable information that a person is a juvenile who has run away from another state party to this compact without the consent of a parent, guardian, person or agency entitled to his legal custody, such juvenile may be taken into custody without a requisition and brought forthwith before a judge of the appropriate court who may appoint counsel or guardian ad litem for such juvenile and who shall determine after a hearing whether sufficient cause exists to hold the person, subject to the order of the court, for his own protection and welfare, for such a time not exceeding ninety (90) days as will enable his return to another state party to this compact pursuant to a requisition for his return from a court of that state. If, at the time when a state seeks the return of a juvenile who has run away, there is pending in the state wherein he is found any criminal charge, or any proceeding to have him adjudicated a delinquent juvenile for an act committed in such state, or if he is suspected of having committed within such state a criminal offense or an act of juvenile delinquency, he shall not be returned without the consent of such state until discharged from prosecution or other form of proceeding, imprisonment, detention or supervision for such offense of juvenile delinquency. The duly accredited officers of any state party to this compact, upon the establishment of their authority and the identity of the juvenile being returned, shall be permitted to transport such juvenile through any and all states party to this compact, without interference. Upon his return to the state from which he ran away, the juvenile shall be subject to such further proceedings as may be appropriate under the laws of that state.

Criminal charge in state where found.

Transportation.

(b) That the state to which a juvenile is returned

Costs.

HeinOnline -- 1967 vol. I 137 1967

under this article shall be responsible for payment of the transportation costs of such return.

"Juvenile."

(c) That "juvenile" as used in this article means any person who is a minor under the law of the state of residence of the parent, guardian, person or agency entitled to the legal custody of such minor.

Return of escapees and absconders.

Article V—Return of escapees and absconders

(a) That the appropriate person or authority from whose probation or parole supervision a delinquent juvenile has absconded or from whose institutional custody he has escaped shall present to the appropriate court or to the executive authority of the state where the delinquent juvenile is alleged to be located a written requisition for the return of such delinquent juvenile. Such requisition shall state the name and age of the delinquent juvenile, the particulars of his adjudication as a delinquent juvenile, the circumstances of the breach of the terms of his probation or parole or of his escape from an institution or agency vested with his legal custody of supervision, and the location of such delinquent juvenile, if known, at the time the requisition is made. The requisition shall be verified by affidavit, shall be executed in duplicate, and shall be accompanied by two certified copies of the judgement, formal adjudication, or order of commitment which subjects such delinquent juvenile to probation or parole or to the legal custody of the institution or agency concerned. Such further affidavits and other documents as may be deemed proper may be submitted with such requisition. One copy of the requisition shall be filed with the compact administrator of the demanding state, there to remain on file subject to the provisions of law governing records of the appropriate court. Upon the receipt of a requisition demanding the return of a delinquent juvenile who has absconded or escaped, the court or the executive authority to whom the requisition is addressed shall issue an order to any peace officer on other appropriate person directing him to take into custody and detain such delinquent juvenile. Such detention order must substantially recite the facts necessary to the validity of its issuance hereunder. No delinquent juvenile detained upon such order shall be delivered over to the officer whom the appropriate person or authority demanding him shall have appointed to receive him, unless he shall first be taken forthwith before a judge of an

Requisition for return— to contain.

Verification.

Filing.

Detention order.

Hearing.

HeinOnline -- 1967 vol. I 138 1967

appropriate court in the state, who shall inform him of the demand made for his return and who may appoint counsel or guardian ad litem for him. If the judge of such court shall find that the requisition is in order, he shall deliver such delinquent juvenile over to the officer whom the appropriate person or authority demanding him shall have appointed to receive him. The judge, however, may fix a reasonable time to be allowed for the purpose of testing the legality of the proceeding.

Information.

Upon reasonable information that a person is a delinquent juvenile who has absconded while on probation or parole, or escaped from an institution or agency vested with his legal custody or supervision in any state party to this compact, such person may be taken into custody in any other state party to this compact without a requisition. But in such event, he must be taken forthwith before a judge of the appropriate court, who may appoint counsel or guardian ad litem for such person and who shall determine, after a hearing, whether sufficient cause exists to hold the person subject to the order of the court for such a time, not exceeding ninety (90) days, as will enable his detention under a detention order issued on a requisition pursuant to this article. If, at the time when a state seeks the return of a delinquent juvenile who has either absconded while on probation or parole or escaped from an institution or agency vested with his legal custody or supervision, there is pending in the state wherein he is detained any criminal charge or any proceeding to have him adjudicated a delinquent juvenile for an act committed in such state, or if he is suspected of having committed within such state a criminal offense or an act of juvenile delinquency, he shall not be returned without the consent of such state until discharged from prosecution or other form of proceeding, imprisonment, detention or supervision for such offense or juvenile delinquency. The duly accredited officers of any state party to this compact, upon the establishment of their authority and the identity of the delinquent juvenile being returned, shall be permitted to transport such delinquent juvenile through any and all states party to this compact, without interference. Upon his return to the state from which he escaped or absconded, the delinquent juvenile shall be subject to such further proceedings as may be appropriate under the laws of that state.

Chriminal charge pending in state where found.

HeinOnline -- 1967 vol. I 139 1967

Cost.

(b) That the state to which a delinquent juvenile is returned under this article shall be responsible for payment of the transportation cost of such return.

Voluntary return procedure.

Article VI—Voluntary return procedure

That any delinquent juvenile who has absconded while on probation or parole, or escaped from an institution or agency vested with his legal custody or supervision in any state party to this compact, and any juvenile who has run away from any state party to this compact, who is taken into custody without a requisition in another state party to this compact under the provisions of article IV (a) or of article V (a), may consent to his immediate return to the state from which he absconded, escaped or ran away. Such consent shall be given by the juvenile or delinquent juvenile and his counsel or guardian ad litem if any, by executing or subscribing a writing, in the presence of a judge of the appropriate court, which states that the juvenile or delinquent juvenile and his counsel or guardian ad litem, if any, consent to his return to the demanding state. Before such consent shall be executed or subscribed, however, the judge, in the presence of counsel or guardian ad litem, if any, shall inform the juvenile or delinquent juvenile of his rights under this compact. When the consent has been duly executed, it shall be forwarded to and filed with the compact administrator of the state in which the court is located and the judge shall direct the officer having the juvenile or delinquent juvenile in custody to deliver him to the duly accredited officer or officers of the state demanding his return, and shall cause to be delivered to such officer of officers a copy of the consent. The court may, however, upon the request of the state to which the juvenile or delinquent juvenile is being returned, order him to return unaccompanied to such state and shall provide him with a copy of such court order; in such event a copy of the consent shall be forwarded to the compact administrator of the state to which said juvenile or delinquent juvenile is ordered to return.

Consent in writing.

Filing.

Cooperative supervision of probationers and parolees.

Article VII—Cooperative supervision of probationers and parolees

(a) That the duly constituted judicial and administrative authorities of a state party to this compact (herein called "sending state") may permit any delin-

"Sending state."

HeinOnline -- 1967 vol. I 140 1967

quent juvenile within such state, placed on probation or parole, to reside in any other state party to this compact (herein called "receiving state") while on probation or parole, and the receiving state shall accept such delinquent juvenile, if the parent, guardian or person entitled to the legal costody of such delinquent juvenile is residing or undertakes to reside within the receiving state. Before granting such permission, opportunity shall be given to the receiving state to make such investigations as it deems necessary. The authorities of the sending state shall send to the authorities of the receiving state copies of pertinent court orders, social case studies and all other available information which may be of value to and assist the receiving state in supervising a probationer or parolee under this compact. A receiving state, in its discretion, may agree to accept supervision of a probationer or parolee in cases where the parent, guardian or person entitled to the legal custody of the delinquent juvenile is not a resident of the receiving state, and if so accepted the sending state may transfer supervision accordingly.

"Receiving state."

Investigations.

(b) That each receiving state will assume the duties of visitation and of supervision over any such delinquent juvenile and in the exercise of those duties will be governed by the same standards of visitation and supervision that prevail for its own delinquent juveniles released on probation or parole.

Duties of supervision.

(c) That, after consultation between the appropriate authorities of the sending state and of the receiving state as to the desirability and necessity of returning such a delinquent juvenile, the duly accredited officers of a sending state may enter a receiving state and there apprehend and retake any such delinquent juvenile on probation or parole. For that purpose, no formalities will be required, other than establishing the authority of the officer and the identity of the delinquent juvenile to be retaken and returned. The decision of the sending state to retake a delinquent juvenile on probation or parole shall be conclusive upon and not reviewable within the receiving state, but if, at the time the sending state seeks to retake a delinquent juvenile on probation or parole, there is pending against him within the receiving state any criminal charge or any proceeding to have him adjudicated a delinquent juvenile for any act committed in

Return of juvenile on probation.

Criminal charge.

HeinOnline -- 1967 vol. I 141 1967

such state, or if he is suspected of having committed within such state a criminal offense or an act of juvenile delinquency, he shall not be returned without the consent of the receiving state until discharged from prosecution or other form of proceeding, imprisonment, detention or supervision for such offense or juvenile delinquency.

Transportation.

The duly accredited officers of the sending state shall be permitted to transport delinquent juveniles being so returned through any and all states party to this compact, without interference.

Costs.

(c) That the sending state shall be responsible under this article for paying the costs of transporting any delinquent juvenile to the receiving state or of returning any delinquent juvenile to the sending state.

Responsibility for costs.

Article VIII—Responsibility for costs

(a) That the provisions of article IV (b), V (b) and VII (d) of this compact shall not be construed to alter or affect any internal relationship among the departments, agencies and officers of and in the government of a party state, or between a party state and its subdivisions, as to the payment of cost, or responsibilities therefor.

(b) That nothing in this compact shall be construed to prevent any party state or subdivision thereof from asserting any right against any person, agency or other entity in regard to costs for which such party state or subdivision thereof may be responsible pursuant to articles IV (b), V(b) or VII (d) of this compact.

Detention practices.

Article IX—Detention practices

That, to every extent possible, it shall be the policy of states party to this compact that no juvenile or delinquent juvenile shall be placed or detained in any prison, jail or lockup nor be detained or transported in association with criminal, vicious or dissolute persons.

Supplementary agreements.

Article X—Supplementary agreements

That the duly constituted administrative authorities of a state party to this compact may enter into supplementary agreements with any other state or states party hereto for the cooperative care, treatment and rehabilitation of delinquent juveniles whenever they shall find that such agreements will improve the facilities or programs available for such care, treatment and rehabilita-

HeinOnline -- 1967 vol. I 142 1967

tion. Such care, treatment and rehabilitation may be provided in an institution located within any state entering into such supplementary agreement. Such supplementary agreements shall:

Agreement to provide.

(1) provide the rates to be paid for the care, treatment and custody of such delinquent juveniles, taking into consideration the character of facilities, services and subsistence furnished;

(2) provide that the delinquent juvenile shall be given a court hearing prior to his being sent to another state for care, treatment and custody;

(3) provide that the state receiving such a delinquent juvenile in one of its institutions shall act solely as agent for the state sending such delinquent juvenile;

(4) provide that the sending state shall at all times retain jurisdiction over delinquent juveniles sent to an institution in another state;

(5) provide for reasonable inspection of such institutions by the sending state;

(6) provide that the consent of the parent, guardian, person or agency entitled to the legal custody of said delinquent juvenile shall be secured prior to his being sent to another state; and

(7) make provision for such other matters and details as shall be necessary to protect the rights and equities of such delinquent juveniles and of the cooperating states.

Article XI—Acceptance of federal and other aid

Acceptance of federal and other aid.

That any state party to this compact may accept any and all donations, gifts and grants of money, equipment and services from the federal or any local government, or any agency thereof and from any person, firm or corporation, for any of the purposes and functions of this compact, and may receive and utilize the same subject to the terms, conditions and regulations governing such donations, gifts and grants.

Article XII—Compact administrators

Compact administrators.

That the governor of each state party to this compact shall designate an officer who, acting jointly with like officers of other party states, shall promulgate rules and

HeinOnline -- 1967 vol. I 143 1967

regulations to carry out more effectively the terms and provisions of this compact.

Execution of compact.

Article XIII—Execution of compact

That this compact shall become operative immediately upon its execution by any state as between it and any other state or states so executing. When executed it shall have the full force and effect of law within such state, the form of execution to be in accordance with the laws of the executing state.

Renunciation.

Article XIV—Renunciation

That this compact shall continue in force and remain binding upon each executing state until renounced by it. Renunciation of this compact shall be by the same authority which executed it, by sending six (6) months' notice in writing of its intention to withdraw from the compact to the other states party hereto. The duties and obligations of a renouncing state under article VII hereof shall continue as to parolees and probationers residing therein at the time of withdrawal until retaken or finally discharged. Supplementary agreements entered into under article X hereof shall be subject to renunciation as provided by such supplementary agreements, and shall not be subject to the six (6) months' renunciation notice of the present article.

Severability.

Article XV—Severability

That the provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any participating state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be thereby. If this compact shall be held contrary to the constitution of any state participating therein, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

Juvenile compact administrator.

Section 2. **Juvenile compact administrator.** Pursuant to said compact, the governor is hereby authorized and empowered to designate an officer who shall be the

HeinOnline -- 1967 vol. I 144 1967

compact administrator and who, acting jointly with like officers of other party states, shall promulgate rules and regulations to carry out more effectively the terms of the compact. Said compact administrator shall serve subject to the pleasure of the governor. The compact administrator is hereby authorized, empowered and directed to cooperate with all departments, agencies and officers of and in the government of this state and its subdivisions in facilitating the proper administration of the compact or of any supplementary agreement or agreements entered into by this state thereunder.

Supplementary agreements.

Section 3. **Supplementary agreements.** The compact administrator is hereby authorized and empowered to enter into supplementary agreements with appropriate officials of other states pursuant to the compact. In the event that such supplementary agreement shall require or contemplate the use of any institution or facility of this state or require or contemplate the provision of any service by this state, said supplementary agreement shall have no force or effect until approved by the head of the department or agency under whose jurisdiction said institution or facility is operated or whose department or agency will be charged with the rendering of such service.

Financial arrangements.

Section 4. **Financial arrangements.** The compact administrator, subject to the approval of the state controller may make or arrange for any payments necessary to discharge any financial obligations imposed upon this state by the compact or by any supplementary agreement entered into thereunder.

Responsibilities of state departments.

Section 5. **Responsibilities of state departments, agencies and officers.** The courts, departments, agencies and officers of this state and its subdivisions shall enforce this compact and shall do all things appropriate to the effectuation of its purposes and intent which may be within their respective jurisdictions.

Additional procedures.

Section 6. **Additional procedures not precluded.** In addition to any procedure provided in articles IV and VI of the compact for the return of any runaway juvenile, the particular states, the juvenile or his parents, the courts or other legal custodian involved may agree upon and adopt any other plan or procedure legally authorized under the laws of this state and the other respective party states for the return of any such runaway juvenile.

HeinOnline -- 1967 vol. I 145 1967

Effective immediately.

Section 7. This act is effective on its passage and approval.

Approved: February 20, 1967.

;CHAPTER 77

An Act Creating an Advisory Committee on Boiler Rules to Advise the Industrial Accident Board; Authorizing the Committee to Promulgate Rules for Safe Construction, Installation, Inspection and Repair of Boilers; Providing for Special Boiler Inspections; Regulating New Boiler Installations; and Excluding Certain Types of Boilers from the Provisions of This Act; Amending Sections 69-1501, 69-1503, 69-1512 and 69-1513, R.C.M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 69-1501, R.C.M. 1947, is amended to read as follows:

Advisory committee on boiler rules.

"69-1501. *(1) There is hereby created to advise the industrial accident board an advisory committee on boiler rules which shall hereafter be referred to as the committee,*

Members—terms.

consisting of three (3) members who shall be appointed by the governor, one for two (2) years, one for three (3) years and one for four (4) years. At the expiration of their respective terms or when vacancies occur they or their successors identified with the same interest respectively shall be appointed by the governor for terms of four (4) years

Qualifications.

each. Of these appointed members one (1) shall be a practical steam operating engineer of boilers, one (1) shall represent the boiler insurance companies licensed to do business in the state, and one (1) shall be a graduate mechanical engineer. The committee shall elect one (1) of its members as chairman and shall meet twice each year.

Compensation

The members of the committee shall serve without salary but shall receive actual travel expenses in the same manner as other state officers.

Duties.

The committee shall act in a technical advisory capacity to the industrial accident board and shall formulate definitions, rules and regulations for the safe construction, installation, inspection and repair of equipment covered by

HeinOnline -- 1967 vol. I 146 1967

this act. The definitions, rules and regulations so formulated shall follow generally accepted nation-wide engineering standards as published by the American society of mechanical engineers.

Boiler inspectors —appointment and term.

(2) Appointment, term and compensation of boiler inspectors. The industrial accident board shall appoint not to exceed four *(4) state* inspectors of boilers and shall prescribe their term of office and fix their compensation.

Certificates as special boiler inspectors.

In addition to the state boiler inspectors the industrial accident board shall issue to the inspectors of boiler insurance companies authorized to do business in the state, commissions, certificates or other recognition as special boiler inspectors and shall accept the inspection reports of such special inspectors as equivalent to those of the state inspectors, provided that each such special inspector shall hold a certificate as boiler inspector issued by the national board of boiler and pressure vessel inspectors. Such special inspectors shall receive no salary or expenses from the state nor shall the state collect inspection fees for inspections made by such special inspectors."

Amending clause.

Section 2. Section 69-1503, R.C.M. 1947, is amended to read as follows:

Inspection of new installations.

"69-1503. **Inspection of boilers**—*new boiler installations.* (1) The inspector of boilers must inspect all steam boilers and steam generators before the same are used, and all persons who bring into this state any boiler or boilers must notify the boiler inspector stating the number and kind of boilers, where they had heretofore been located, and where they are to be located and operated in this state, and must secure from the boiler inspector a certificate of inspection before said boilers are placed in operation, except in the case of new boilers, which must be inspected within ninety *(90)* days after they are put in use, and all boilers must be inspected at least once in every year, *except boilers exempt under provisions of section 69-1515.* Any person failing to give notice to the boiler inspector as herein provided, or who operates such boilers without a certificate from the boiler inspector, shall be punished by a fine of not less than one hundred dollars *($100)* nor more than five hundred dollars *($500)* for each offense, or by imprisonment in the county jail for not less than thirty *(30)* nor more than ninety *(90)* days, or by both such fine and imprisonment.

Exemptions— penalty for violation.

HeinOnline -- 1967 vol. I 147 1967

Testing requirements.

(2) The inspector of boilers must subject all boilers, *except those exempted by 69-1515,* to hydrostatic pressure, which hydrostatic pressure must be thirty-three and one-third per cent *(33 1/3%)* greater than the steam pressure allowed on the boilers, providing there are no such leaks on such boilers which prevent the inspector from applying such hydrostatic pressure. And the inspector must satisfy himself by a thorough interior and exterior examination that the boilers are well made and of good and suitable material; that the openings for the passage of water and steam, respectively, and all pipes and tubes exposed to heat, are of the proper dimensions and free from obstructions; that the flues are circular in shape; that the fire line of the furnace is at least two *(2)* inches below prescribed minimum water line of the boilers; that the arrangements for delivering the feed water are such that the boilers cannot be injured thereby, and that such boilers and the steam connections may be safely employed without danger to life.

New boiler installations.

(3) New boiler installations. No boiler which does not conform to the rules and regulations formulated by the committee governing new construction and installation shall be installed and operated in this state after twelve (12) months from the date upon which the first rules and regulations under this act pertaining to new construction and installation shall have become effective, unless the boiler is of special design or construction, and is not covered by the rules and regulations, nor is in any way inconsistent with such rules and regulations, in which case a special installation and operating permit may at its discretion be granted by the committee."

Amending clause.

Section 3. Section 69-1512, R.C.M. 1947, is amended to read as follows:

Inspection fees.

"69-1512. **Fees for inspection or examination.** (1) At the time of inspection, the *state* inspector of boilers shall collect fees for the inspection in accordance with the following schedule:

(a) Boilers with pressure under thirty (30) pounds per square inch $5.00

(b) Boilers with pressure from thirty (30) pounds to one hundred (100) pounds per square inch $7.50

HeinOnline -- 1967 vol. I 148 1967

(c) Boilers with pressure from one hundred (100) pounds to three hundred (300) pounds per square inch $10.00

(d) Boilers with pressure over three hundred (300) pounds per square inch $15.00

(e) miniature boilers with pressure not in excess of sixty-five (65) pounds per square inch $5.00

Payment of fees.

In case of the failure of the owner, manager or person in charge of any boiler to pay such fee upon the demand of the inspector, said inspector is authorized to seal the firebox of said boiler, and said seal shall not be removed until said fee is paid and the written order of the inspector authorizing its removal is received by said owner or manager. Any person who tampers with or removes such seal without such written order shall be deemed guilty of a misdemeanor and punished as provided by section 69-1507.

Special inspection—costs.

(2) Whenever, upon request of the owner or operator of any boiler it is necessary for the inspector to make a special trip for the inspection of the boiler, the mileage and per diem allowed by law, in addition to the fees herein prescribed, shall be charged and collected by the inspector at the time such special inspection is made.

Engineer license fees.

(3) Applicants for engineer's license shall pay fees according to the class of license for which application is made, as specified in the following schedule.

(a) First class $15.00

(b) Second class $10.00

(c) Third class .....$ 6.00

(d) Low pressure .....$ 4.00

(e) Traction .....$ 6.00

(f) Renewal of license .....$ 2.00

(g) Replacement of lost certificate .....$ 1.00

Examination.

In case of the failure of any applicant to pass a successful examination, ninety *(90)* days must elapse before he can again be examined for license. But the inspector may grant to the applicant a lower grade of license than

HeinOnline -- 1967 vol. I 149 1967

that applied for upon such examination. All certificates of inspection and engineers' licenses must be displayed in a conspicuous place in the engine room."

Amending clause.

Section 4. Section 69-1515, R.C.M. 1947, is amended to read as follows:

Boilers exempt.

"69-1515. **Boilers exempted from provisions—duty of owner of traction engine—notice of purchase of boiler.**

(1) *This act shall not apply to boilers under federal control. The provisions of this act requiring inspections, inspection fees and certificates shall not apply to steam heating boilers carrying a pressure of not over fifteen (15) psi in private residences or apartments of six (6) or less families or to hot water heating or supply boilers operated at pressure not over one hundred and sixty (160) psi and temperatures not over two hundred fifty degrees fahrenheit (250°F) when in private residences or apartments of six (6) or less families.* Locomotives used on railroads conducting a general business in hauling passengers and freight do not come under the provisions of this article. But locomotives, commonly known as dinkey engines, used in operating logging or mining railroads, or any similar work where such locomotives are owned, leased or operated by any individual, company, or corporation and are used in the business of such individual, company, or corporation, and not for general commercial purposes, shall be classed as traction engines and be subject to inspection as are other traction engines, and the persons operating or firing such dinkey locomotives shall be required to hold traction licenses. Nor are locomotive engineers, save as herein provided, or persons operating any of the engines or boilers herein, exempted from the operation of this article, required to procure license from the inspectors.

Traction engine boilers—notification of location.

(2) It shall be the duty of the owner and user of any traction engine or boiler on wheels to notify the inspector of the location of such boiler on or before the first day of June of each year. Any owner or user of such traction engine or boiler on wheels who shall fail to notify the inspector as herein provided shall be deemed guilty of a misdemeanor. Any person purchasing any steam boiler whether traction or stationary boiler, shall be entitled to receive from the seller the certificates of inspection issued on such boiler and any person purchasing any steam

HeinOnline -- 1967 vol. I 150 1967

boiler, whether traction or stationary, not exempted by the provisions of this section, shall, within ten *(10)* days after such purchase, report the fact of such purchase to the boiler inspector and notify such inspector where he intends to locate or operate said boiler. Any person failing to comply with the provisions of this section shall be deemed guilty of a misdemeanor. All other steam boilers and steam engines, save as herein exempted, come under the provisions of this article and persons operating same are required to hold the proper grade of license."

Approved: February 20, 1967.

CHAPTER 78

An Act to Amend Section 79-1202, R.C.M. 1947, Relating to Moneys to Be Invested by the State Board of Land Commissioners and the Employment and Obtaining of Investment Counsel and Services by Said Board.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 79-1202, R.C.M. 1947, is amended to read as follows: Amending clause.

"79-1202. **Moneys to be invested according to unified plan.** Moneys invested—unified plan.

1. The state board of land commissioners is hereby authorized and required to invest the Montana trust and legacy fund subject to the provisions, regulations and limitations of sections 81-1001 to 81-1008, inclusive. Trust fund.

2. The state board of land commissioners is hereby authorized and required to invest in the long term investment fund the following: Moneys administered by the Montana highway patrolmen's retirement board in excess of twenty-five thousand dollars ($25,000); moneys administered by the public employees' retirement board; moneys administered by the industrial accident board; all moneys subject to investment as designated by the teachers' retirement board; moneys designated as available by the Montana fish and game commission and all other moneys designated by statute. Moneys in the long term investment fund may be invested as follows: Long-term investment fund—moneys invested. Moneys in long-term investment —how invested.

(a) In or upon securities which are direct obligations U. S. obligations.

HeinOnline -- 1967 vol. I 151 1967

of the United States government; securities which are guaranteed as to principal and interest by the United States government; securities issued by instrumentalities of the United States government.

Bonds.

(b) In general obligation bonds of school districts within the state of Montana; in general obligation bonds of the several counties and cities of the state of Montana; in general obligation bonds of the state of Montana; in capitol building bonds of the state of Montana, now issued or which may hereafter be issued; in bonds issued by the federal land banks; in bonds issued by the state board of examiners to construct an unemployment compensation commission office building including the landscaping and paving around said building, upon land adjacent to the capitol buildings; in bonds or other securities which may be issued for the construction of a physical education building at the state industrial school, provided that sufficient income from fees collected under section 80-816 shall be pledged for the retirement of such bonds or other securities; in interest-bearing warrants upon the general fund of the state and in interest-bearing warrants upon the general fund, the poor fund, the road fund, the retirement fund, or upon the bridge fund of the several counties and school districts of the state of Montana; the purchase of all such investments to be subject to the discretion of the board.

Warrants.

U. S. agency obligations.

(c) In the obligations, and/or stock where stated, of the following agencies of the government of the United States of America, whether or not such obligations are guaranteed by such government:

(1) Commodity credit corporation.

(2) Federal intermediate credit banks.

(3) Federal land banks.

(4) Central bank for cooperatives.

(5) Federal home loan banks, and stock thereof.

(6) Federal national mortgage association, and stock thereof when acquired in connection with sale of mortgage loans to such association.

First mortgages—when insured—amount guaranteed.

(d) In first mortgages on unencumbered real property when such mortgages are guaranteed or insured in

HeinOnline -- 1967 vol. I 152 1967

the amount of fifty per centum (50%) or more of the loan made in the event of default by the United States government or any agency or corporate agency of the United States government and in obligations of housing authorities subject to the terms and limitations of section 35-143, provided, however, no more than fifty per centum (50%) of the funds in one (1) account shall be invested in such mortgages.

First mortgage bonds, debentures and notes.

(e) In first mortgage bonds, debentures, notes and other evidences of indebtedness issued, assumed or guaranteed by any solvent and operating public utility corporation existing under the laws of the United States of America or any state thereof which bonds, debentures, notes and other evidences of indebtedness are, at the time of such investment, within the three (3) highest quality grades for the rating of such bonds, debentures, notes and other evidences of indebtedness by any nationally recognized investment rating agency.

Equipment trust obligations.

(f) In equipment trust obligations or certificates adequately secured and evidencing an interest in transportation equipment, wholly or in part within the United States of America, which obligations or certificates carry the right to receive determined portions of rental, purchase, or other fixed obligatory payments to be made for the use or purchase of such transportation equipment, and which obligations or certificates are, at the time of such investment, within the three (3) highest quality grades for the rating of such obligations or certificates by any nationally recognized investment rating agency.

Separate accounts.

All securities purchased and all cash on hand for each fund shall be kept separate in the long term investment fund and all interest collected shall be credited to the fund for which the securities were purchased.

Short-term investment fund.

(3) The state board of land commissioners is hereby authorized and required to invest in the short term investment fund any surplus cash in the office of the state treasurer; any money in the sinking fund, which is not required for the immediate payment of any bond principal or interest, or which cannot be used for payment and redemption of bonds outstanding because of the same not being redeemable under the option provisions contained therein; any Montana highway patrolmen's retirement moneys less than twenty-five thousand dollars

HeinOnline -- 1967 vol. I 153 1967

($25,000) as directed by the Montana highway patrolmen's retirement board and any other moneys designated by statute to be so invested or any moneys in the custody of any officer or officers of the state, or any governing body of any city, county or school district, the investment of which moneys is requested by the officer, or officers or governing body and which moneys are subject to investment. The moneys in the short term investment fund may be invested as follows:

Short-term investment—allowable investments.

(a) The surplus cash in the office of the state treasurer may be invested in registered warrants of the state of Montana and in treasury obligations of the United States government. All warrants purchased shall bear no interest and the interest received from treasury obligations shall be credited to the general fund of the state of Montana.

(b) Any sinking fund and any other moneys may be invested in bonds of the state of Montana, bonds of the United States, in bonds issued by any agency or department of the United States, treasury obligations of the United States, and in interest-bearing warrants drawn against the general fund of the state of Montana; provided, however, that none of such moneys in the sinking fund shall be invested in bonds or securities except such as will be called in and paid at least fifteen (15) days prior to the time such moneys are required for the payment of principal and interest.

Separate funds.

All securties purchased and all cash on hand for each account or subfund shall be kept separate in the short term investment fund and all interest collected shall be credited to the account or subfund for which the securities were purchased.

Investment counsel.

The state board of land commissioners is hereby authorized to employ, for the purpose of securing advice on retention, sale or purchase of securities, an expert on financial matters who has had a minimum of ten (10) years' experience in the investment field. *The said board is also authorized to obtain financial and investment counsel and services from qualified persons and sources on a fee or contract basis."*

Approved: February 20, 1967.

HeinOnline -- 1967 vol. I 154 1967

CHAPTER 79

An Act to Provide that Members of a City-County Consolidated Government Commission Shall Receive Compensation Not to Exceed that Allotted Aldermen of Cities of the First Class; Providing that They Receive the Same Mileage as County Commissioners for Travel in the Performance of Their Duties; Amending Section 11-3413, R.C.M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 11-3413, R.C.M. 1947, is amended to read as follows: Amending clause.

"11-3413. **Compensation of commission—maximum—penalty for absences—mileage.** The commission may by ordinance provide compensation for its members, *but the total amount and manner of compensation may not exceed the maximum sum prescribed by law for aldermen of cities of the first class.* Compensation. Maximum.

Absence from all regular meetings for a period of ninety *(90)* days shall operate to vacate the seat of a member unless such absence be authorized by the commission. Penalty for absence.

In addition to any compensation authorized by this section each member of the commission shall receive *the same sum prescribed by law for county commissioners* per mile for any distance, in excess of ten *(10)* miles, necessarily traveled in going from and returning to his residence because of attendance upon a regular, or regularly called meeting of the commission *or in travel in the county undertaken in performance of official duties."* Mileage.

Approved: February 20, 1967.

CHAPTER 80

An Act to Provide that Commissioners of City-County Consolidated Governments May Let Contracts for a Value up to Two Thousand Dollars ($2000) Without Advertising for Bids; Amending Section 11-3516, R.C.M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 11-3516, R.C.M. 1947, is amended to read as follows: Amending clause.

HeinOnline -- 1967 vol. I 155 1967

Letting contracts —advertising —execution.

"11-3516. **Letting of contracts—advertising for bids—execution.** All contracts entered into by the municipality for supplies or materials, for any public work, or for the construction, reconstruction, repair, maintenance or operation of any public works or improvements for which must be paid a sum exceeding *two thousands dollars ($2,000)* shall be awarded to the lowest responsible bidder, after public advertisement and competition as may be prescribed by ordinance, but the manager shall have the right to reject all bids and advertise again. All advertisements as to contracts shall contain a reservation of the foregoing right. All contracts entered into by the municipality shall be signed by the manager after approval thereof by the commission."

Approved: February 20, 1967.

CHAPTER 81

An Act Concerning Tax Levies in City-County Consolidated Governments, Providing That Tax Levies for Current Expenses Shall Not Be in Excess of the Maximum Levies Under Law for the Cities and Counties Which Have Been Consolidated; Changing the Limitation on Levies for Special Services; Amending Section 11-3455 and 11-3458, R.C.M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 11-3455, R.C.M. 1947, is amended to read as follows:

Tax levy for current expense —limitation.

"11-3455. **Tax levy for current expense—limitation on.** No ordinance making the annual tax levy shall be passed fixing the rate to be levied upon all property within the municipality to defray current expenses, including salaries otherwise unprovided for, in excess *of the maximum levies prescribed by law for general fund purposes in the county and the cities and towns which have been consolidated into a single government.*"

Amending clause.

Section 2. Section 11-3458, R.C.M. 1947, is amended to read as follows:

Tax levy for special services.

"11-3458. **Tax levy for special services.** The commission may by ordinance designate clearly specified dis-

HeinOnline -- 1967 vol. I 156 1967

tricts in or for which special services are to be performed and may levy upon the property in any such district such tax, in addition to any taxes authorized by section 11-3455 as may be necessary *with other available funds and grants* to pay the cost of such special service or services. *The boundaries of special service districts shall be regularly reviewed by the commissioners and may be adjusted upon recommendation by an authorized planning body in response to changing population patterns;* but in no case shall such additional levy be more than twenty (20) mills."

Approved: February 20, 1967.

CHAPTER 82

An Act Authorizing Political Agencies of the State of Montana to Enter Into Interlocal Agreements for the Exercise Jointly of Their Respective Powers and Privileges; Specifying the Form and Content of Interlocal Agreements; Providing for the Approval of Said Agreements by the Attorney General of the State of Montana and for the Filing of Said Agreements and Authorizing Public Agencies to Appropriate Funds for and to Dispose of Property to Administrative Joint Boards Created by Interlocal Contracts; Enacting a Severability Clause.

Be it enacted by the Legislative Assembly of the State of Montana:

Political agencies may enter into agreements for joint exercise of powers.

Section 1. **Purpose.** It is the purpose of this act to permit local governmental units to make the most efficient use of their powers by enabling them to cooperate with other local governmental units on a basis of mutual advantage and thereby to provide services and facilities in a manner and pursuant to forms of governmental organization that will accord best with geographic, economic, population, and other factors influencing the needs and development of local communities.

Interlocal cooperation act.

Section 2. **Short title.** This act shall be known and cited as the Interlocal Cooperation Act.

Definitions. "Public agency."

Section 3. **Definitions.** For the purposes of this act the term "public agency" shall mean any poltical sub-

HeinOnline -- 1967 vol. I 157 1967

division, including municipalities, counties, school districts and any agency or department of the state of Montana.

Interlocal agreements.

Section 4. **Interlocal agreements.** Any one or more public agencies may contract with any one or more other public agencies to perform any administrative service, activity or undertaking which any of said public agencies entering into the contract is authorized by law to perform provided that such contract shall be authorized and approved by the governing body of each party to said contract. Such contract shall set forth fully the purposes, powers, rights, obligations and responsibilities of the contracting parties and shall specify the following:

Contract shall specify.

(1) Its duration.

(2) The precise organization, composition and nature of any separate legal entity created thereby.

(3) The purpose or purposes of said interlocal contract.

(4) The manner of financing the joint or cooperative undertaking and establishing and maintaining a budget therefor.

(5) The permissible method or methods to be employed in accomplishing the partial or complete termination of the agreement and for disposing of property upon such partial or complete termination.

(6) Any other necessary and proper matters.

(7) Provision for an administrator or a joint board responsible for administering the joint or cooperative undertaking including representation of the contracting parties on said joint board.

(8) The manner of acquiring, holding, and disposing of real and personal property used in the joint or cooperative undertaking.

Approval by attorney general.

(9) Every agreement made hereunder shall, prior to and as a condition precedent to its performance, be submitted to the attorney general of the state of Montana who shall determine whether the agreement is in proper form and compatible with the laws of the state of Montana. The attorney general shall approve any agreement submitted to him hereunder unless he shall find

HeinOnline -- 1967 vol. I 158 1967

it does not meet the conditions set forth herein and shall detail in writing addressed to the governing bodies of the public agencies concerned the specific respects in which the proposed agreement fails to meet the requirements of law. Failure to disapprove an agreement submitted hereunder within thirty (30) days of its submission shall constitute approval thereof.

Filing of agreement.

(10) Within ten (10) days after the approval by the attorney general, and prior to commencement of its performance said interlocal contract made pursuant to this act shall be filed with the county clerk and recorder of the county or counties where said political agencies are situate and with the secretary of state of the state of Montana.

Appropriation of funds.

(11) Any public agency entering into an interlocal contract pursuant to this act may appropriate funds for and may sell, lease, or otherwise give or supply to the administrative board created for the purpose of performance of said contract and may provide such personnel or services therefor as may be within its legal power to furnish.

Severability clause.

Section 5. **Severability.** If a part of this act shall be declared to be invalid, all valid parts that are severable from the invalid parts remain in effect. If a part of this act is declared to be invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Approved: February 20, 1967.

CHAPTER 83

An Act to Amend Section 32-3601, R.C.M. 1947, Enacted as Section 7-101 Chapter 197, Laws of 1965, Increasing Permissive Levy for General Road Tax.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 32-3601 Revised Codes of Montana, 1947, is amended to read as follows:

General road tax.

"32-3601. **General road tax.** (1) To raise revenue for the construction, maintenance, or improvement of public highways, each board of county commissioners may

HeinOnline -- 1967 vol. I 159 1967

levy a general tax upon the taxable property in the county of not more than *twelve (12)* mills, payable to the county treasurer. The tax from freeholders shall be collected the same as other taxes, and from nonfreeholders as the board may direct.

12 mills.

Exclusion.

(2) This section shall not apply to incorporated cities and towns which, by ordinance, provide for the levy of a like tax for road, street, or alley purposes.

Disposition of funds.

(3) All moneys collected under this section shall belong to the county road fund."

Approved: February 20, 1967.

CHAPTER 84

An Act to Amend Section 75-2703, Revised Codes of Montana, 1947, as Last Amended by Chapter 177, Laws of Montana, 1965, Relating to Per Diem of Board Members and Replacing Material Inadvertently Removed by House Bill 38 of the 1965 Legislative Session and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That Section 75-2703, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Administration.

"Section 75-2703. **Administration.** (1) The general administration and the responsibility for the proper operation of the retirement system and for making effective the provisions of this act are hereby vested in a retirement board. Subject to the limitations of this act the retirement board shall from time to time establish rules and regulations for the administration and transaction of the business of the retirement system and shall perform such other functions as are required for the execution of this act. The membership of the retirement board shall consist of five (5) persons as follows:

Membership.

(a) The superintendent of public instruction.

(b) Two (2) persons from the teaching profession.

(c) Two (2) persons who shall be representatives of the public.

HeinOnline -- 1967 vol. I 160 1967

The two (2) members chosen from the teaching profession shall be known as teacher members, and shall be members of the retirement system.

Appointments.

(2) The members of the board of teachers' retirement system shall be appointed by the governor within thirty (30) days after this act takes effect and shall serve for terms of four (4) years, provided, however, that those first appointed after this act takes effect other than the superintendent of public instruction shall serve for terms respectively of one (1), two (2), three (3) and four (4) years.

Vacancies.

(3) If a vacancy occurs in the office of a member of said board, the vacancy may be filled by the governor for the unexpired term.

Oath.

(4) Each member of the retirement board created by this act shall take and subscribe the oath prescribed by article XIX, section 1 of the constitution of the state of Montana, and such oath shall be filed in the office of the secretary of state.

Quorum.

(5) A majority of the members of the retirement board shall constitute a quorum for the transaction of any business.

Compensation.

(6) The members of the retirement board shall serve without compensation except that the members thereof, excluding superintendent of public instruction, shall receive a per diem fee of *twenty dollars ($20.00)* each for each day in actual attendance at the meetings of said board or in the execution of their duties as members of said board; provided, however, that in no instance shall any such member of said board receive as said per diem fee, a sum in excess of *three hundred dollars ($300.00)* in any one (1) year; and the members of said board shall be allowed their actual and necessary traveling expenses while performing their duties as members of said board, which shall be paid quarterly upon proper vouchers from the expense fund hereinafter named.

Officers.

(7) The retirement board shall elect from its membership a chairman, and shall appoint a secretary who may be, but need not be one (1) of its members.

Power of board.

(8) The retirement board shall have power to employ and to secure the services of such technical and adminis-

HeinOnline -- 1967 vol. I 161 1967

trative employees as may be necessary for the transaction of the business of the retirement system. The compensation of all persons engaged by the retirement board shall be fixed by the board and all other expenses of the board necessary for the proper operation of the retirement system shall be paid at such rates and in such amounts as the retirement board shall approve.

Record of proceedings.

(9) The retirement board shall keep in convenient form such data as shall be necessary for actuarial valuation of the various funds of the retirement system and for checking the experience of the system. It shall keep a record of all of its proceedings which shall be open to public inspection. It shall publish biennially on or before the first day of January wherein the legislative assembly shall meet a report showing in detail the fiscal transactions of the retirement board for the two (2) years ending on the preceding thirtieth day of June, the amount of the accumulated cash and securities of the system and the last balance sheet showing the financial condition of the system by means of an actuarial valuation of the assets and liabilities of the retirement system. The board shall submit said report to the governor and shall furnish copies thereof to the heads of the various departments and to the legislative assembly.

Legal adviser.

(10) The attorney general of the state of Montana shall be the legal adviser of the retirement board.

Medical board.

(11) The retirement board may designate a medical board to be composed of three physicians not eligible to participate in the retirement system. If required, other physicians may be employed to report on special cases. The medical board shall arrange for and pass upon all medical examinations required under the provisions of this act, shall investigate all essential statements and certificates by or on behalf of a member in connection with an application for disability retirement, and shall report in writing to the retirement board its conclusions and recommendations upon all the matters referred to it.

Actuary.

(12) The retirement board shall designate an actuary who shall be the technical adviser of the retirement board on matters regarding the operation of the funds created by the provisions of this act and shall perform such other duties as are required in connection therewith.

HeinOnline -- 1967 vol. I 162 1967

(13) As soon after the establishment of the system as the board may deem it necessary, the board with the assistance of its actuary shall make such investigation of the mortality, service and compensation experience of the members of the system as he shall recommend and the retirement board shall authorize, for the purpose of determining upon the proper mortality and service tables to be prepared and submitted to the retirement board for adoption. On the basis of such investigation the said retirement board shall adopt such tables and such rates as are required by section 75-2708.

Actuarial study.

(14) It shall be the duty of the retirement board to adopt for the retirement system such mortality, service or other tables as shall be deemed necessary and to certify such rates of contribution as are payable by the state as hereinafter provided. As an aid to the board in certifying the annual rates of payment to be made by the state under the provisions of this act the board shall have prepared by an actuary an annual valuation of the assets and liabilities of the funds of the system. In the year 1940 and at least once in each five (5) year period thereafter, the actuary shall make an actuarial investigation into the mortality, service and compensation experience of the members and beneficiaries of the retirement system, and shall make a valuation of the assets and liabilities of the funds of the system, and taking into account the result of such investigation and valuation the board shall modify such mortality, service and other tables and shall fix and determine rates of contribution payable on account of members by the state under the provisions of this act, and said board shall have the power and authority at any time the same may be found necessary to readjust and redetermine such rates of contribution to the end that the retirement system shall be kept at all times upon a sound financial and actuarial basis, and that the contributions shall be the actuarial equivalent of the benefits provided and paid."

Adoption of mortality tables.

Actuarial investigation.

Section 2. That this act shall be in full force and effect from and after its passage and approval.

Effective immediately.

Approved: February 21, 1967.

CHAPTER 85

An Act Authorizing Elections in School Districts for a School District Building Reserve Fund Not to Exceed

HeinOnline -- 1967 vol. I 163 1967

Five Per Cent of Taxable Value of School District Property to Be Used for Buildings and Equipment, Providing for Tax Levy, Requiring Election for Issuance of School Bonds Within Limitation of Law if Required and Allowing for Investment of Funds.

Be it enacted by the Legislative Assembly of the State of Montana:

Election on creation of building reserve fund.

Section 1. (1) The board of trustees of any school district may, whenever a majority thereof so decide, submit to the electors of the district the question whether the board shall be authorized to create a building reserve fund of a certain amount, to be raised within a specified number of years, for the purpose of the erection, equipping or enlargement of school buildings, teacherages, garages, or other buildings needed for school purposes.

Reserve fund limitation.

The reserve fund shall not exceed five (5) per cent of the value of the taxable property in the district. If created, the fund shall be held by the county treasurer and by him credited to the school district creating same, to be used for the purposes specified in this section and

Investment.

not for any other purpose. Whenever the county has under its control any moneys credited to the fund from taxation or from the sale of bonds by a school district for a building reserve fund for which there is no immediate demand, which in the judgment of the governing body of the school district it would be advantageous to invest in any interest bearing deposits in a state or national bank insured by the F.D.I.C., or obligations of the United States of America, either short-term or long-term, such governing body may in its discretion direct the county treasurer to make such investments. Interest earned from such investments shall be credited to the sinking fund of the school district notwithstanding the provisions of subsection (6) of section 16-2618.

Manner of holding election.

(2) The election shall be held in the manner prescribed for election on the issuance of school bonds, except that the ballots must contain the words "building reserve fund, yes" and "building reserve fund, no." If the majority of the votes at the election are "building reserve fund, yes" the clerk of the district shall immediately notify the board of county commissioners and the county treasurer, and the board of county commissioners shall thereafter levy annually the tax necessary to raise the funds for the number of years specified. The funds shall be kept in the custody of the county treasurer until

HeinOnline -- 1967 vol. I 164 1967

sufficient funds have been raised to commence the building contemplated by the school district.

Issuance of bonds to complement reserve fund.

(3) At any time after the raising of a building reserve fund has been commenced by any school district, the board of school trustees may submit to the electors of the district, as provided by law, the question whether the board shall be authorized to issue bonds of the district for the balance of the building reserve fund. If both reserve funds and bond funds are needed for the purposes authorized herein, the reserve funds must be used prior to using funds from the issuance and sale of bonds. If the bonds are authorized, the annual building reserve fund levy shall be discontinued by the board of county commissioners when the levy is commenced for payment of the bonds.

Priority.

Approved: February 21, 1967.

CHAPTER 86

An Act to Provide That in the Event a Vacancy Occurs in a Multi-County Senatorial or Representative District, Before the General Election, the Same Shall Be Filled by a Committee Consisting of Three (3) Members From Each County Contained in the Senatorial or Representative District; Amending Section 23-811, R.C.M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 23-811, R.C.M. 1947, is amended to read as follows:

Vacancies may be filled by further certificates—when.

"23-811. **Vacancies may be filled by further certificates.** *When a vacancy occurs in the office of a candidate for either house of the legislative assembly after the primary election and before the printing of the tickets for the general election, or if a candidate* declines the nomination as in this chapter provided, or if any certificate of nomination is or becomes insufficient or inoperative from any cause, the vacancy or vacancies thus occasioned may be filled in the manner required for original nomination. If the original nomination was made by a party convention which had delegated to a committee the power to fill vacancies, such committee may, upon the occurring of such

Nominating committee.

HeinOnline -- 1967 vol. I 165 1967

Multi-county district—committee members.

vacancies, proceed to fill the same. *If the vacancy occurs in a multi-county senatorial or representative district it shall be filled by a committee consisting of three (3) members from each county in the senatorial or representative district. The three (3) members shall be selected by the central committee, in each county, of the political party of the person for whom the new nominee is to be substituted.*

Officers.

The chairman and secretary of such committee must thereupon make and file with the proper officer a certificate setting forth the cause of the vacancy, the name of the person nominated, the office for which he was nominated, the name of the person for whom the new nominee is to be substituted, the fact that the committee was authorized to fill vacancies, and such further information as is required to be given in an original certificate of nomination.

Certificate—form.

The certificate so made must be executed in the manner prescribed for the original certificate of nomination, and has the same force and effect as an original certificate of nomination. When such certificate is filed with the secretary of state he must, in certifying the nominations to the various county clerks, insert the name of the person who has thus been nominated to fill a vacancy in place of the name of the original nominee. And in the event he has already transmitted his certificate he must forthwith certify to the clerks of the proper counties the name and description of the person so nominated to fill a vacancy, the office he is nominated for, the party or political principle he represents and the name of the person for whom such nominee is substituted."

Approved: February 21, 1967.

CHAPTER 87

An Act to Amend Section 62-305, R.C.M. 1947, to Provide That Fees and Charges Collected for the Use of State Parks Shall Be Deposited in the Earmarked Revenue Fund to the Credit of the State Fish and Game Commission.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 62-305, R.C.M. 1947, is amended to read as follows:

HeinOnline -- 1967 vol. I 166 1967

"62-305. **Disposal of fees and charges.** The commission shall have power to levy and collect reasonable fees or other charges for the use of such privileges and conveniences as may be provided, and to grant such concessions as it may deem advisable. All moneys derived from the activities of the commission shall be deposited in the state treasury *in the earmarked revenue fund* to the credit of the *commission.*" Disposal of fees and charges.

Approved: February 21, 1967.

CHAPTER 88

An Act to Amend Section 66-1302, R.C.M. 1947, by the Adding Thereto a Provision Authorizing the Montana State Board of Examiners in Optometry to Seek to Enjoin Violations of Said Section, to Employ Legal Counsel, Authorizing the District Courts to Enjoin Such Violations, and Providing for the Exceptions Thereto.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 66-1302, R.C.M. 1947, is amended to read as follows: Amending clause.

"66-1302. **Provisions regulating practice of optometry.** It shall be unlawful for any person: Regulation of practice of optometry.

1. To practice optometry in the state of Montana unless he shall first have obtained a certificate of registration, in the manner hereinafter provided, and filed the same or a certified copy thereof with the county clerk and recorder of the county of his residence, excepting such persons who at the present time are regularly registered optometrists and possess a valid, unrevoked certificate of registration; or Certificate of registration required.

2. To sell or barter, or offer to sell or barter any certificate of registration issued by the state board of optometry; or Misuse of certificate.

3. To purchase or procure by barter any such certificate of registration with intent to use the same as evidence of the holder's qualification to practice optometry; or

4. To alter with fraudulent intent in any material regard such certificate of registration; or

HeinOnline -- 1967 vol. I 167 1967

5. To use or attempt to use any such certificate of registration which has been purchased, fraudulently issued, counterfeited or materially altered as a valid certificate of registration; or

False name. 6. To practice optometry under a false or assumed name; or

False statement. 7. To willfully make any false statement in a material regard in any application for an examination before the state board of optometry or for a certificate of registration; or

Advertising profession. 8. To advertise by displaying a sign or by otherwise holding himself out to be an optometrist without having at the time of so doing a valid unrevoked certificate of registration; or

Prescribing lenses. 9. To replace or duplicate ophthalmic lenses with or without a prescription or to dispense ophthalmic lenses from prescriptions, without having at the time of so doing a valid, unrevoked certificate of registration as an optometrist, provided, however, that the provisions hereof shall not be construed so as to prevent an optical mechanic from doing the merely mechanical work on an ophthalmic lense which is ordered on a prescription signed by a duly licensed optometrist and is dispensed only by said optometrist or a person employed by said optometrist and who does so in the office of and under the direct personal supervision of an optometrist; or

Measurements. 10. To take or make any measurements for the purpose of fitting or adapting ophthalmic lenses to the human eye, without having at the time of so doing a valid, unrevoked certificate of registration; and any person who shall take or make any measurements or use any mechanical device whatsoever for such purpose or who shall in the sale of spectacles or eyeglasses or lenses use, in the testing of the eyes therefor, lenses other than the lenses actually sold, shall be deemed to be practicing optometry within the meaning thereof; provided, that nothing in this section shall apply to the prescriptions of qualified optometrists when sent to a recognized optical laboratory.

Advertising service. 11. To advertise at a price, or any stated terms of such a price, or as being free, any of the following: The examination or treatment of the eyes; the furnishing of

HeinOnline -- 1967 vol. I 168 1967

optometrical services, or the furnishing of a lens, lenses, contact lens, contact lenses, glasses, or the frames or fitting thereof.

The provision of this subdivision does not apply to the advertising of goggles, sunglasses, colored glasses, or occupational eye protective devices, provided the same are so made as not to have refractive values and are not advertised in connection with the practice of optometry or of any professional service.

12. To adapt any lens to direct contiguous contact to the human eyeball without having at the time of so doing a valid, unrevoked certificate as an optometrist." Contact lenses.

Whenever the Montana state board of examiners in optometry has reasonable cause to believe that any person is violating any provision of this section, or any lawful rule or regulation issued under this chapter, it may, in addition to all other remedies and provisions provided for in this chapter and without prejudice thereto, bring an action on the relation of the people of the state of Montana in the county in which said violation should occur to enjoin such person from engaging in or continuing such violation or from doing any act or acts in furtherance thereof. Said board is hereby empowered to employ legal counsel to prosecute such actions. In any such action, and upon notice and hearing, an order or judgment may be entered awarding a temporary restraining order or final injunction as may be deemed proper by the judge of the district court in which county said violation may have occurred, said district court hereby being vested with jurisdiction over such injunction action. Provided, however, that this act shall not be construed to apply to physicians and surgeons authorized to practice under the laws of the state of Montana nor to any person acting under the supervision of any such physicians or surgeons, nor to any person as excepted from the operation of this chapter by the provisions of section 66-1316, R.C.M. 1947.

Board may bring action to enjoin unlawful practice.

Exclusions.

Approved: February 21, 1967.

CHAPTER 89

An Act Amending Section 32-3702, Revised Codes of Montana of 1947 to Refer to the 1930 and 1950 Censuses

HeinOnline -- 1967 vol. I 169 1967

for Purposes of Determining Population in Place of the 1960 Census; Containing a Repealer Clause and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause. Section 1. Section 32-3702, Revised Codes of Montana of 1947 is amended to read as follows:

Population centers. "32-3702. **Population centers—city road fund—county road fund.**

"City road fund." *(1)* The county treasurer shall segregate from the county motor vehicle fund, and designate as the "city road fund":

50% of license fees—population —census. (a) Fifty per cent (50%) of the net license fees derived from the registration of motor vehicles whose owners reside within the limits of any incorporated city.

(i) Having a population of thirty-five thousand (35,000) or more according to the federal census of *1930,* or

(ii) Lying within one (1) mile of the limits of an incorporated city having a population of thirty-five thousand (35,000) or more according to the federal census of *1930.*

25% of license fees—population —census. (b) Twenty-five per cent (25%) of the net license fees derived from the registration of motor vehicles whose owners reside within the limits of any incorporated city having a population of ten thousand (10,000) or more according to the federal census of *1950,* which city is located in a county which has an area of less than seven hundred and fifty (750) square miles.

"County road fund." (2) The balance of the county motor vehicle fund remaining after segregation of the city road fund shall be transferred to the "county road fund." "

Repealing clause. Section 2. All acts and parts of acts in conflict herewith are repealed.

Effective immediately. Section 3. This act is effective upon its passage and approval.

Approved: February 21, 1967.

CHAPTER 90

An Act Requiring Flagmen Escorts Preceding and Following Livestock Herded on Interstate or State Pri-

HeinOnline -- 1967 vol. I 170 1967

mary Highways and Prohibiting Herding Livestock on Said Highways During Nighttime; and Providing Exceptions.

Be it enacted by the Legislative Assembly of the State of Montana:

Herds to be escorted by flagmen on highway.

Section 1. Any person who owns, controls or is entitled to possession of any livestock shall not herd or drive a herd of livestock in excess of the number of ten (10) on any interstate or state primary highways as defined by the state highway commission in the state unless the livestock shall be preceded and followed by flagmen escorts for the purpose of warning other highway users. Livestock shall not be herded or driven on any interstate or state primary highways during nighttime as defined in section 90-406, R.C.M. 1947, except in a case of emergency. During the hours of darkness the flagmen escorts will use adequate warning lights such as, but not limited to, portable lamps, lanterns, or rotating beacons. This provision shall not apply during daytime at posted livestock crossings on highways.

Darkness.

Exclusion.

Violation.

Section 2. Any person violating the terms of this act shall be guilty of a misdemeanor.

Approved: February 21, 1967.

CHAPTER 91

An Act to Amend Section 5-528, R.C.M. 1947, Relating to Joint Deposits and Right of Survivorship With Respect to Such Deposits.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 5-528, R.C.M. 1947, is amended to read as follows:

Joint deposits—survivorship.

"5-528. (6014.53) **Joint deposits—survivorship.** When a deposit has been made, or shall hereafter be made, in any bank *transacting business in this state,* in the names of two (2) *or more* persons, payable to either or, payable to either or the survivor, *or any survivor,* such deposit, or any part thereof, or any interest or dividend thereon, may be paid to *any* of said persons, whether the other *or others* be living or not; and the receipt or acquittance of the

HeinOnline -- 1967 vol. I 171 1967

person so paid shall be a valid and sufficient release or discharge to the bank for any payment so made.

To include certificates of deposit.

The term deposit shall include certificates of deposit heretofore or hereafter issued."

Approved: February 21, 1967.

CHAPTER 92

An Act to Amend Section 32-21-149, R.C.M. 1947, Relating to Restrictions Placed on Tire Equipment; Permitting the Use of Specially Designed Pneumatic Tires When Required for Safety Because of Snow, Ice or Other Conditions Tending to Cause a Vehicle to Skid.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 32-21-149, R.C.M. 1947, is amended to read as follows:

Restrictions as to tire equipment.

"32-21-149. **Restrictions as to tire equipment.**

(a) Every solid rubber tire on a vehicle shall have rubber on its entire traction surface at least one (1) inch thick above the edge of the flange of the entire periphery.

Metal tires prohibited.

(b) No person shall operate or move on any highway any motor vehicle, trailer, or semitrailer having any metal tire in contact with *the* roadway.

Certain devices prohibited.

(c) No tire on a vehicle moved on a highway shall have on its periphery any block, stud, flange, cleat, or spike or any other protuberance of any material other than rubber which projects beyond the tread of the traction surface of the tire, except that it shall be permissible to use farm machinery with tires having protuberances which will not injure the highway, and except also that it shall be permissible to use tire chains of reasonable proportions *or pneumatic tires, the traction surfaces of which have been embedded with material such as wood, wire, plastic or metal,* upon any vehicle when required for safety because of snow, ice, or other conditions tending to cause a vehicle to skid.

Special permits.

(d) The commission and local authorities in their respective jurisdictions may in their discretion issue special permits authorizing the operation upon a high-

HeinOnline -- 1967 vol. I 172 1967

way of traction engines or tractors having movable tracks with transverse corrugations upon the periphery of such movable tracks or farm tractors or other farm machinery, the operation of which upon the highway would otherwise be prohibited under this act."

Approved: February 21, 1967.

CHAPTER 93

An Act to Amend Section 11-1602, R.C.M. 1947, to Enlarge the Jurisdiction of Police Courts to Provide They Have Jurisdiction of Violations of Section 94-35-106.2, R.C.M. 1947, Prohibiting Possession of Beer or Liquor by a Minor; Prohibiting the Selling, Giving Away or Disposing of Intoxicating Liquor to Minors in Violation of Section 94-35-106, R.C.M. 1947; and Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That section 11-1602, R.C.M. 1947, be amended to read as follows: Amending clause.

"11-1602. **Jurisdiction of police courts.** The police court has concurrent jurisdiction with the justice of the peace of the following public offenses committed within the county: Jurisdiction of police courts—offenses.

1. Petit larceny.

2. Assault and battery, not charged to have been committed upon a public officer in the discharge of his official duty, or with intent to kill.

3. Breaches of the peace, riots, affrays, committing wilful injury to property, and all misdemeanors punishable by fine not exceeding five hundred dollars *($500),* or by imprisonment not exceeding six *(6)* months, or by both fine and imprisonment.

4. Proceedings respecting vagrants, lewd, or disorderly persons. Such offenses must be prosecuted in the name of the state of Montana.

5. Possession of beer or liquor by persons under the age of twenty-one (21) years in violation of section 94-35-106.2, R.C.M. 1947.

HeinOnline -- 1967 vol. I 173 1967

6. Selling, giving away or disposing of intoxicating liquor to minors in violation of section 94-35-106, R.C.M. 1947.

Civil causes.

Said police court shall have no jurisdiction of any civil cause, except as provided in the next section."

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Approved: February 21, 1967.

CHAPTER 94

An Act to Amend Section 11-1107, R.C.M. 1947, to Provide That Ten Percent (10%) of the Qualified Voters of Any City or Town May by Petition Demand That Any Ordinance Be Submitted to the Electors of Any City or Town; and Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 11-1107, R.C.M. 1947, is hereby amended to read as follows:

Referendum petition.

"11-1107. **Referendum petition.** During the thirty *(30)* days following the passage of any ordinance or resolution, *ten* percent *(10%)* of the qualified electors of the city or town may, by petition addressed to the council and filed with the clerk of the city or town, demand that such ordinance or resolution, or any part or parts thereof, shall be submitted to the electors of the city or town."

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Approved: February 21, 1967.

CHAPTER 95

An Act Amending Section 59-516, R.C.M. 1947, to Provide That a School District Officer May Destroy Any Claim, Warrant or Voucher, After a Period of Twenty-Five (25) Years.

HeinOnline -- 1967 vol. I 174 1967

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 59-516, R.C.M. 1947, is amended to read as follows: Amending clause.

"59-516. **Certain records to be destroyed after twenty-five** *(25)* **years.** Any claim, warrant, voucher, bond or treasurer's general receipt may be destroyed by any county, city or town *or school district* officer after a period of twenty-five *(25)* years." Records destroyed after 25 years.

Approved: February 21, 1967.

CHAPTER 96

An Act Validating, Ratifying, Approving and Confirming Bonds and Other Instruments or Obligations, Heretofore Issued by Public Bodies of This State, and All Proceedings Heretofore Taken by Such Public Bodies, to Authorize and Issue Such Bonds, Instruments and Other Obligations, However Described, and Providing That This Act May Be Cited as "The 1967 Bond Validating Act"; Containing a Repealing Clause and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. This act may be cited as "The 1967 Bond Validating Act." "The 1967 Bond Validating Act."

Section 2. The following terms, wherever used or referred to in this act, shall have the following meanings:

(1) The term "public body" shall include a county, city, town, school district, irrigation district, drainage district, special improvement district, or any other political or governmental subdivision of the state of Montana, and shall also include the state board of education, the state board of examiners, the state water conservation board, the state highway commission, or any other governmental agency of this state. "Public body."

(2) The term "bonds" shall include bonds, notes, warrants, debentures, certificates of indebtedness, temporary bonds, temporary notes, interim receipts, interim certificates and all instruments or obligations evidencing or representing indebtedness, or evidencing or representing "Bonds."

HeinOnline -- 1967 vol. I 175 1967

the borrowing of money, or evidencing or representing a charge, lien or encumbrance on specific revenues, income or property of a public body, including all instruments or obligations payable from a special fund.

Bonds validated.

Section 3. All bonds heretofore issued by any public body of this state, and all proceedings heretofore taken for the authorization and issuance of such bonds, for the levy, establishment, pledge and appropriation of taxes, special assessments and other charges and revenues to pay such bonds, and for the sale, exchange, execution and delivery thereof, are hereby validated, ratified, approved and confirmed, notwithstanding any lack of power (other than constitutional) of such public body, or the governing board or commission or officers thereof, to authorize and issue such bonds, or to sell, exchange, execute or deliver the same, and notwithstanding any defects or irregularities (other than constitutional) in such proceedings or in such sale, exchange, execution or delivery, and bonds of such public bodies, whether heretofore issued or hereafter issued under the authority of proceedings heretofore taken, are and shall be binding, legal, valid and enforceable obligations of such political body.

Exclusion.

Section 4. This act shall not apply to or affect any action or appeal instituted on or before January 1, 1967, in which the validity of any such proceedings or of any such bonds is at issue.

Repealing clause.

Section 5. All acts and parts of acts in conflict herewith are hereby repealed.

Effective immediately.

Section 6. This act is effective on its passage and approval.

Approved: February 21, 1967.

CHAPTER 97

An Act Permitting a Levy of Not to Exceed Two (2) Mills for City and County Emergencies.

Be it enacted by the Legislative Assembly of the State of Montana:

"Emergency."

Section 1. As used in this act: (1) An "emergency" may be:

HeinOnline -- 1967 vol. I 176 1967

(a) A fire, flood, explosion, storm, blizzard, earthquake or epidemic; or

(b) An occurrence requiring the immediate preservation of order or public health; or

(c) An occurrence requiring the restoration of a condition of usefulness which has been destroyed; or

(d) An occurrence which requires relief of a stricken community.

"County disaster committee."

(2) "County disaster committee" includes:

(a) The members of the agricultural stabilization and conservation county committee of the county involved;

(b) The county commissioners and mayor or mayors of the county involved;

(c) The office manager of the soil conservation service office in the county involved;

(d) The county civil defense director;

(e) The county agriculture extension agent;

(f) Such other persons not to exceed two (2) in number as the county commissioners may appoint.

"Council."

(3) "Council" means the city council of an incorporated municipality.

"Board."

(4) "Board" means the board of county commissioners.

"Mayor."

(5) "Mayor" means the mayor of an incorporated municipality.

"Municipality."

(6) "Municipality" means an incorporated municipality.

Determination of emergency—resolution.

Section 2. The county disaster committee shall determine by a majority vote when an emergency exists. Upon the determination that an emergency does exist, they shall submit a resolution to the mayor or mayors of municipalities of the county and to the chairman of the board.

Action of council and board.

Section 3. (1) Upon receipt of the resolution the mayor or mayors and the chairman of the board shall call joint or separate meetings of the council or councils and the board, respectively.

HeinOnline -- 1967 vol. I 177 1967

Meeting.

(2) A mayor or chairman of a board shall give reasonable notice of the time and place at which the meeting or meetings shall be held.

Resolution.

Section 4. (1) If at the meeting or meetings the council and the board respectively find from the resolution of the county disaster committee that an emergency exists, they shall place in their respective minutes a resolution stating facts constituting the emergency.

Emergency levy.

Section 5. (1) The council and the board shall estimate expenditures and levy an emergency millage to cover the expenditures. The millage levied by the council shall not exceed two (2) mills on the municipality's taxable valuation. The millage levied by the board shall not exceed two (2) mills on the taxable valuation of the county outside the municipalities.

Approval.

(2) No expenditure of revenue received from the millage shall be made without approval of the appropriate levying body.

Additional levy.

(3) An additional levy or levies may be made by the appropriate levying body providing that the sum of the levies for emergencies as set forth in this act shall not exceed two (2) mills in any one year.

Unanimous vote.

(4) All levies under this act may only be passed by a unanimous vote of the appropriate body.

Time limit.

(5) An event shall not be determined to be an emergency under section 2 of this act more than two (2) weeks after the occurrence of such event.

Remaining funds.

Section 6. Funds levied for an emergency and remaining when no further expenditures are necessary shall remain in a separate emergency fund and shall be used only for expenditures arising from future emergencies determined in accordance with section 2 of this act.

Effective date.

Section 7. This act is effective December 31, 1967.

Approved: February 21, 1967.

CHAPTER 98

An Act Authorizing Voluntary Participation in Programs of Research and Development in the Fields of Science,

HeinOnline -- 1967 vol. I 178 1967

Health, Education and Natural Resources by the Governing Boards of State Penal, Corrective or Custodial Institutions, and by the Inmates Thereof for Use in Welfare and Rehabilitation Work Within Said Institutions.

Be it enacted by the Legislative Assembly of the State of Montana:

Boards of state institutions authorized to participate in research programs.

Section 1. The duly constituted and governing board of any penal, corrective, or custodial institution of the state of Montana is hereby enabled and authorized to participate in and cooperate with programs of research and development being conducted and carried on by any units of the Montana university system, by any of the other educational institutions of the state of Montana or by any foundation or agency thereof, in the fields of science, health, education and natural resources. Such programs may include the voluntary participation of the inmates of the institution in testing and experimental work conducted as a part thereof. Any funds received from the authorized programs may be shared with the participating inmates or otherwise held and used for the welfare and rehabilitation thereof, and shall not become a part of the regular budgeted operation of the institution.

Approved: February 21, 1967.

CHAPTER 99

An Act Authorizing Programs of Research and Development in the Fields of Science, Health, Education and Natural Resources Through Authorized Agencies of the Montana University System in Cooperation With Other Governmental and Private Agencies and Providing That the Same Shall Not Be a Charge Upon the State of Montana.

Be it enacted by the Legislative Assembly of the State of Montana:

Montana university system authorized to participate in research and development.

Section 1. Subject to the prior approval of the state board of education of the state of Montana ex officio regents of the Montana university system, the several units of the Montana university system, and the other educational institutions of the state of Montana under the control of the state board of education are authorized and empowered to sponsor, engage in, or participate with

HeinOnline -- 1967 vol. I 179 1967

other units in programs of research and development including such experimental and testing work as may be appropriate thereto in the fields of science, health, education, and natural resources. Such authorized programs may be conducted by and through any department or school in the unit or educational institution or by and through any foundation or organization which is established for the purpose of assisting the unit or educational institution in the accomplishment of its purposes.

Authorization.

Section 2. Any such unit, educational institution, foundation, or organization engaging in an authorized program may:

Contracts.

(1) enter into contracts with private organizations, companies, firms, or individuals for conducting such authorized programs;

Programs in institutions.

(2) subject to the prior approval of the governing board of such institution, conduct activities concerning such authorized programs within any of the penal, corrective, or custodial institutions of the state of Montana and engage the voluntary participation of the inmates thereof in such programs;

Financial assistance.

(3) accept contributions, grants, or gifts from any private organization, company, firm, or individual, or any governmental agency or department for such programs for the advancement of research and development in the fields of science, health, education, and natural resources; and enter into agreements or cooperative undertakings with any private organization, company, firm, or individual or any governmental agency or department with respect thereto, including the matching of funds from such sources with funds otherwise available to it;

Handling of funds —no obligation of state of Montana.

(4) retain, accumulate, invest, commit and expend the funds and proceeds from such authorized programs, including the acquisition of real and personal property reasonably required for the accomplishment of the same, provided, however, that no portion thereof may be diverted from or used for purposes other than those authorized herein, and that no program authorized or undertaken pursuant to the provisions hereof shall ever become a charge upon or obligation of the state of Montana or the general funds appropriated for the normal operation of such unit or agency.

Approved: February 21, 1967.

HeinOnline -- 1967 vol. I 180 1967

CHAPTER 100

An Act Prohibiting Speed Contests and "Drag Racing" on the Public Highways or Streets Unless Written Permission Is Granted by the Authorities Having Jurisdiction Over Such Highways or Streets; Fixing Penalty for Violation of Act.

Be it enacted by the Legislative Assembly of the State of Montana:

Speed contest prohibited on public street without permission.

Section 1. No race or contest for speed shall be held and no person shall engage in or aid or abet in any motor vehicle speed contest or exhibition of speed on a public highway or street without written permission of the authorities of the state, county or city having jurisdiction and unless the same is fully and efficiently patrolled for the entire distance over which such race or contest for speed is to be held.

Violation—penalty.

Section 2. Any person convicted for violation of this act shall be guilty of a misdemeanor and shall be punished by a fine of not less than fifty dollars ($50) or more than five hundred dollars ($500) or by imprisonment in the county or city jail for not more than six (6) months, or by both such fine and imprisonment.

Approved: February 21, 1967.

CHAPTER 101

An Act to Amend Section 71-202, Revised Codes of Montana, 1947, as Amended, to Provide for Increasing the Per Diem Allowance of State Welfare Board Members from Fifteen Dollars ($15) Per Day to Twenty Dollars ($20) Per Day, and to Provide for Increasing Annual Limitation of Per Diem Payments from One Thousand Dollars ($1,000) to Twelve Hundred Fifty Dollars ($1,250).

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 71-202, Revised Codes of Montana, 1947, is amended to read as follows:

Appointment, creation and salary of state board.

"71-202. **Appointment of state board — creation — salary.** (a) The state board of public welfare shall consist of five (5) members appointed by the governor with

HeinOnline -- 1967 vol. I 181 1967

Members.

the advice and consent of the senate on the basis of a broad experience and interest in civic affairs and matters of public welfare. The members of the state board, no more than three (3) of whom shall be of the same political party, shall be appointed on or before February 1st of each year in which the terms of members expire, to hold office for overlapping terms of four (4) years each; provided, however, that the persons heretofore appointed and now serving as such shall constitute the state board of public welfare under this act, until their successors are appointed. The governor shall fill the first two (2) vacancies in the state board as now constituted by the appointment of members whose terms shall expire on March 3, 1955, and shall fill the remaining three (3) vacancies in the state board as now constituted by the appointment of members whose terms shall expire on March 3, 1957. Board members may be removed by the governor for cause.

Vacancies.

Removal.

Qualifications.

(b) Each member of the state board shall be a citizen of the United States and a resident of the state of Montana for a period of five (5) years immediately preceding the date of his appointment. Appointments to fill vacancies in the membership of the state board shall be made by the governor for the remaining portion of such term.

Oath of office.

(c) The members of the state board shall take and subscribe to the constitutional oath of office.

Chairman and officers.

(d) The governor shall designate the chairman of the state board and the state board shall elect such remaining officers of the board as it may deem necessary.

Per diem.

$20.00 per day.

(e) Each member of the state board of public welfare shall receive *twenty dollars ($20)* per diem for each day actually spent in the performance of his duties and his actual necessary traveling and other expenses in going to, attending and returning from meetings of the board, and his actual and necessary traveling and other expenses incurred in the discharge of such duties as may be requested of him by a majority vote of the board, but in no event shall a member's per diem payments exceed *twelve hundred fifty dollars ($1,250)* in any one (1) year. No member of the state board shall have any direct financial interest in or profit by any of the operations of the state department of public welfare or any of its agencies.

Limitation.

$1,250.00.

No member to have financial interest in operations.

HeinOnline -- 1967 vol. I 182 1967

Per diem and expenses of state board members shall, upon claims being presented according to state law, be paid out of funds appropriated to the state department of public welfare." Payment.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed. Repealing clause.

Approved: February 21, 1967.

CHAPTER 102

An Act to Amend Section 94-1104, R.C.M. 1947; Providing That Agreements to Add to Bid Prices for the Purpose of Refunds or Cost Sharing With Other Bidders or Returning Any Part Thereof to an Association Shall Be Unlawful.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 94-1104, R.C.M. 1947, is amended to read as follows: Amending clause.

"94-1104. **Unlawful trusts and monopolies—penalty.** Every person, corporation, stock company, or association of persons in this state, who, directly or indirectly, combine or form what is known as a trust, or make any contract with any person or persons, corporation, or stock companies, foreign or domestic, through their stockholders, directors, officers, or in any manner whatever, for the purpose of fixing the price or regulating the production of any article of commerce—the phrase 'articles of commerce,' as herein employed, shall and does include not only those articles which are generally, popularly, and legally known as articles of commerce, but also gas, water, water power, electric light, and electric power, for whatever purpose used or employed—or of the product of the soil for consumption by the people, or to create or carry out any restriction in trade, to limit productions, or increase or reduce the price of merchandise or commodities, or to prevent competition in merchandise or commodities, or to fix a standard or figure whereby the price of any article of merchandise, commerce, or product, intended for sale, use, or consumption, will be in any way controlled, *or to agree, directly or indirectly, to add to a bid for any contract an amount, fixed by percentage or other-* Unlawful trusts and monopolies. "Articles of commerce."

HeinOnline -- 1967 vol. I 183 1967

wise, for the purpose of making a refund or sharing costs of bidding with any other bidder, or to return a part of any amount added to a bid by collusive agreement among bidders to any person, association, organization or corporation, or to create a monopoly in the manufacture, sale, or transportation of any such article, or to enter into an obligation by which they shall bind others or themselves not to manufacture, sell, or transport any such articles below a common standard or figure, or by which they agree to keep such article or transportation at a fixed or graduated figure, or by which they settle the price of such article, so as to preclude unrestricted competition, is punishable by imprisonment in the county jail for a period not less than twenty-four *(24)* hours or more than one *(1)* year, or by fine not exceeding twenty-five thousand dollars *($25,000)*, or both."

Penalty.

Approved: February 21, 1967.

CHAPTER 103

An Act to Amend Section 75-106, R.C.M. 1947, Increasing the Amount of Per Diem to Members of the State Board of Education and Removing the Maximum Limitation on Annual Expenses.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 75-106, R.C.M. 1947, is amended to read as follows:

Meetings—dates and places.

"75-106. **Meetings, per diem and expenses.** The board shall hold quarterly meetings at the state capitol or at any other town or city in the state of Montana in or near which may be located any institutions under its jurisdiction on the second Monday in April, July, September and December in each year, and may hold special meetings at any time and place it may direct. The president and secretary of the board may also call special meetings of said board at any time and place, if in their judgment necessity requires it. The secretary of the board shall notify the members of all regular and special meetings. The members of the board, other than ex officio members shall receive *twenty ($20)* dollars per day each for each day in attendance on meetings of said board or in the per-

Per diem.

$20.00 per day.

HeinOnline -- 1967 vol. I 184 1967

formance of any duty or services as members of such board and necessary and actual expenses incurred. All expenses of the state board of education, including per diem and expenses of members and the salary and expenses of the executive secretary of the *Montana university system* incurred while transacting university business, shall be paid out of the appropriations made by the legislative assembly for said university."

Approved: February 21, 1967.

CHAPTER 104

An Act Providing for Refund of Tax Paid on Special Fuel When Special Fuel Is Not Consumed on the Public Roads and Highways of this State or When There Has Been an Overpayment of Special Fuel Tax; Providing for a Refund of the Temporary Permit Fee When a Special Fuel Vehicle Permit Is Obtained for the Same Vehicle; Providing an Expiration Date; Amending Sections 84-1836 and 84-1837, R.C.M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That section 84-1836, Revised Codes of Montana, 1947, is amended to read as follows: Amending clause.

"84-1836. **Credits.** Any *licensed special fuel user or licensed special fuel dealer* who has paid a special fuel tax either directly or to the vendor from whom it was purchased, shall receive credit in the amount of any tax paid on special fuel exported for use outside of this state, *or for any use off the public roads and highways of this state, or for any overpayment of special fuel taxes not due to the state.* Special fuel carried from this state in the fuel tank of a motor vehicle is deemed to be exported from this state. Credits to licensed special fuel users and dealers.

Any licensed special fuel user who purchases a temporary special fuel permit, and thereafter applies for a special fuel vehicle permit for the same vehicle in less than eleven (11) days after the temporary permit is issued, shall receive credit in the amount of the temporary permit fee." Temporary permit.

Section 2. That section 84-1837, Revised Codes of Montana, 1947, is amended to read as follows: Amending clause.

HeinOnline -- 1967 vol. I 185 1967

Procedure to obtain credits—requests and refunds.

'84-1837. **Procedures for credits.** *Should a licensed special fuel user or licensed special fuel dealer desire to receive refund of special fuel taxes or of the temporary permit fee, the user or dealer shall make a signed and written request to the board requesting those amounts then due.* Any amount determined to be creditable by the board under section 84-1836 shall first be credited on any amounts then due and payable from the special fuel dealer or special fuel user to whom the refund is due, and the board shall then certify the balance to the credit of the dealer or user, *and a warrant shall be drawn upon the state treasurer for the amount of such claim and same shall be paid in the same manner as other claims against the state are paid.*

When refunds excepted.

Provided however, in case any special fuel user or special fuel dealer fails or neglects to file a request for refund of special fuel taxes within twelve (12) months from the date his special fuel license became cancelled, the board shall be under no obligation to make a refund."

Approved: February 21, 1967.

CHAPTER 105

An Act to Require the Purchase of a Special Fuel User's Temporary Trip Permit if a Valid Special Fuel Vehicle Permit is Not Carried in the Vehicle; Amending Section 84-1842, R.C.M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 84-1842, R.C.M. 1947, is amended to read as follows:

Special fuel users' temporary trip permits—issuance.

"84-1842. *Special fuel user's temporary trip permits—* **agents by whom issued.** *Any person operating a special fuel-powered vehicle upon the public roads and highways of this state who fails or neglects to carry in the vehicle a valid special fuel vehicle permit, as provided by section 84-1833, shall be required to purchase a special fuel user's temporary trip permit.* The permits will be issued by scale house personnel, gross vehicle weight (g.v.w.) patrol crews, Montana highway patrolmen, and such other enforcing agents as the board of equalization may prescribe by order, rule or regulation."

Approved: February 21, 1967.

HeinOnline -- 1967 vol. I 186 1967

CHAPTER 106

An Act to Require That Special Fuel Dealers or Users, Who Do Not Have Their Records in Montana, Must Accompany Such Records if They Are Furnished to the State Board of Equalization for Review; Amending Section 84-1838, R.C.M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That section 84-1838, R.C.M. 1947, is amended to read as follows: Amending clause.

"84-1838. **Administration.** (a) Rules and regulations: The board shall enforce the provisions of this act, and may prescribe, adopt and enforce reasonable rules and regulations relating to the administration and enforcement thereof. Administration.

(b) Examination of records: The board or its authorized representative is hereby empowered to examine the books, papers, records and equipment of any special fuel dealer or special fuel user or any person dealing in, transporting, or storing special fuel as defined in this act and to investigate the character of the disposition which any person makes of such special fuel in order to ascertain and determine whether all excise taxes due hereunder are being properly reported and paid. If such books, papers, records and equipment are not maintained in this state at the time of demand, they shall be furnished to the board for review *and shall be accompanied by the special fuel dealer or special fuel user* or such dealer or user shall bear the reasonable cost of examination by an agent authorized or designated by the board at the place where such books or records are kept provided the taxpayer shall not be liable for such costs for a period exceeding one (1) week or for such longer period as he may consent to in writing, unless the result of said examination is the payment of a tax deficiency. Examination of records. Records out of state to be furnished.

(c) Evidence: For the purpose of enforcing the provisions of this act, the fact that a special fuel dealer or a special fuel user has placed or received special fuel into storage or dispensing equipment designed to fuel motor vehicles shall be prima facie evidence that all of such special fuel has been delivered by the special fuel dealer or special fuel user into the fuel supply tanks of motor vehicles and consumed in the propulsion of motor vehicles Evidence—delivery of special fuel.

HeinOnline -- 1967 vol. I 187 1967

upon the highways as herein defined unless the contrary shall be established by satisfactory evidence.

Reciprocal exchange of data.

(d) Reciprocal exchange of data: The board shall, upon request from officials to whom are entrusted the enforcement of the special fuel tax law of any other state, the District of Columbia, the United States, its territories and possessions, the provinces of the Dominion of Canada, forward to such officials any information which it may have relative to the receipt, storage, delivery, sale, use or other disposition of special fuel by any special fuel dealer or special fuel user, provided such other state or states furnish like information to this state."

Approved: February 21, 1967.

CHAPTER 107

An Act to Amend Section 31-222, R.C.M. 1947, Authorizing Members to Nominate and Change Beneficiaries at Time of and After Retirement; Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 31-222, R.C.M. 1947, be, and the same is hereby amended to read as follows:

Nomination of beneficiaries.

"31-222. **Nomination of beneficiary.** Every contributor shall have the authority to name his beneficiary by written designation duly acknowledged and filed with the board, and to change the beneficiary in like manner. Such designation and all changes must be filed with the board."

Effective immediately.

Section 2. This act shall be effective upon its passage and approval.

Approved: February 21, 1967.

CHAPTER 108

An Act to Institute and Maintain in the Board of Health a Regulatory Program for Sources of Ionizing Radiation; to Provide for Compatibility With the Standards

HeinOnline -- 1967 vol. I 188 1967

and Regulatory Provisions of the Federal Government for a Single Effective System of Registration of Persons Handling Radioactive Materials or Equipment Using Such Materials; Setting Forth Penalties for Noncompliance.

Be it enacted by the Legislative Assembly of the State of Montana:

Declaration of policy.

Section 1. **Declaration of policy.** It is the policy of the state of Montana in furtherance of its responsibility to protect the public health and safety:

Regulation of sources of ionizing radiation.

(1) To institute and maintain a regulatory program for sources of ionizing radiation so as to provide for compatability with the standards and regulatory programs of the federal government, a single, effective system of regulation within the state, and a system consistent insofar as possible with those of other states; and

Development and use of sources of ionizing radiation.

(2) To institute and maintain a program to permit development and utilization of sources of ionizing radiation for peaceful purposes consistent with the health and safety of the public.

Purpose.

Section 2. **Purpose.** It is the purpose of this act to provide:

Regulation.

(1) A program of effective regulation of sources of ionizing radiation for the protection of the occupational and public health and safety;

Orderly regulation.

(2) A program to promote an orderly regulatory pattern within the state, among the states and between the federal government and the state and facilitate intergovernmental cooperation with respect to use and regulation of sources of ionizing radiation to the end that duplication of regulation may be minimized;

Procedures for use.

(3) A program to establish procedures for assumption and performance of certain regulatory responsibilities with respect to by-product, source, and special nuclear materials; and

Maximum utilization.

(4) A program to permit maximum utilization of sources of ionizing radiation consistent with the health and safety of the public.

By-product material.

Section 3. **Definitions.** (1) By-product material means any radioactive material (except special nuclear material) yielded in or made radioactive by exposure to

HeinOnline -- 1967 vol. I 189 1967

the radiation incident to the process of producing or utilizing special nuclear material.

Ionizing radiation.

(2) Ionizing radiation means gamma rays and x-rays, alpha and beta particles, high-speed electrons, neutrons, protons and other nuclear particles but not sound or radio waves or visible, infrared or ultraviolet light.

General license.

(3) General license means a license effective pursuant to regulations promulgated by the board of health without the filing of an application to transfer, acquire, own, possess or use quantities of or devices or equipment utilizing quantities of by-product, source, special nuclear materials, or other radioactive material occurring naturally or produced artificially. General licenses are effective without the filing of applications with the board of health or the issuing of licensing documents to the user.

General licenses effective—when.

Specific license.

(4) Specific license means a license, issued after application, to use, manufacture, produce, transfer, receive, acquire, own or possess quantities of, or devices or equipment utilizing quantities of by-product, special nuclear materials, or other radioactive material occurring naturally or produced artificially.

Person.

(5) Person means any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, agency, political subdivision or agency thereof, and any legal successor, representative, agent, or agency of the foregoing, other than the United States atomic energy commission, any successor thereto, or federal agencies licensed by the atomic energy commission.

Source material.

(6) Source material means uranium, thorium or any other material which the board of health or the United States atomic energy commission declares by order to be source material or ores containing one (1) or more of the foregoing materials, in such concentration as the board of health or the atomic energy commission declares by order to be source material after the atomic energy commission has determined the material in such concentration to be source material.

Special nuclear material.

(7) Special nuclear material means plutonium, uranium enriched in the isotope 233 or in the isotope 235, and any other material which the board of health or the United States atomic energy commission, or any successor

HeinOnline -- 1967 vol. I 190 1967

thereto declares by order to be special nuclear material or any material artificially enriched by any of the foregoing, but does not include source material.

(8) Registration means the registering by the legal owner, user or authorized representative with the board of health in the manner prescribed by rule or regulation of sources of ionizing radiation. Registration.

Section 4. **State radiation control agency.** (1) The board of health is hereby designated as the state radiation control agency. State radiation control agency—powers of board of health.

(2) In accordance with the laws of the state of Montana, the board of health may employ, compensate and prescribe the powers and duties of such individuals as may be necessary to carry out the provisions of this act.

(3) The board of health may for the protection of the occupational and public health and safety:

(a) Develop and conduct programs for evaluation and control of hazards associated with the use of sources of ionizing radiation; Programs.

(b) Develop programs and formulate, adopt, promulgate, and repeal rules and regulations with due regard for compatibility with federal programs for licensing and regulation of by-product, source, radioactive waste materials and special nuclear materials and other radioactive materials. These rules and regulations shall cover equipment and facilities, methods for transporting, handling and storage of radioactive materials, permissible levels of exposure, technical qualifications of personnel, required notification of accidents and other incidents involving radioactive materials, survey methods and results, methods of disposal of radioactive materials, posting and labeling of areas and sources and methods and effectiveness of controlling individuals in posted and restricted areas; Rules and regulations.

(c) Formulate, adopt, promulgate and repeal rules and regulations relating to control of other sources of ionizing radiation. These rules and regulations shall cover equipment and facilities, permissible levels of exposure to personnel, posting of areas, surveys and records; Control of sources.

HeinOnline -- 1967 vol. I 191 1967

Modification of rules.

(d) Issue such orders or modifications thereof as may be necessary in connection with proceedings under section 5 of this act;

Cooperate with other agencies.

(e) Advise, consult and cooperate with other agencies of the state, the federal government, other states and interstate agencies, political subdivisions and with groups concerned with control of sources of ionizing radiation;

Administration of financial aid.

(f) Have the authority to accept and administer loans, grants, or other funds or gifts, conditional or otherwise, in furtherance of its functions, from the federal government and from other sources, public or private;

Research and study.

(g) Encourage, participate in, or conduct studies, investigations, training, research and demonstrations, relating to control of sources of ionizing radiation;

Collect and disseminate information.

(h) Collect and disseminate information relating to control of sources of ionizing radiation, including:

1. Maintenance of a file of all license applications, issuances, denials, amendments, transfers, renewals, modifications, suspensions and revocations;

2. Maintenance of a file of registrants possessing sources of ionizing radiation requiring registration under the provisions of this act and any administrative or judicial action pertaining thereto;

3. Maintenance of a file of all rules and regulations relating to regulation of sources of ionizing radiation, pending or promulgated and proceedings thereon.

Radiation advisory committee.

Section 5. **Radiation advisory committee.** The board of health shall appoint a radiation advisory committee of five (5) members who represent interested groups in the state. Members of the committee shall serve at the discretion of the board of health and shall be reimbursed for necessary and actual expense incurred in attendance at meetings or for authorized business of the board of health. The committee shall furnish such technical advice as may be required on matters relating to the radiation control program.

Members—compensation.

Licensing of users.

Section 6. **Licensing and registration of persons handling radioactive materials or equipment using such materials.**

HeinOnline -- 1967 vol. I 192 1967

Specific licensing.

(1) The board of health shall provide by rule or regulation for general or specific licensing of persons to receive, possess, or transfer radioactive materials and devices or equipment utilizing such materials. Such rules or regulations shall provide for amendment, suspension, or revocation of licenses pursuant to section 11 of this act;

Application to contain.

(2) Each application for a specific license shall be in writing and shall state such information as the board of health by rule or regulation may determine to be necessary to decide the technical, insurance and financial qualifications or any other qualification of the applicant as the board of health may deem reasonable and necessary to protect the occupational and public health and safety. The board of health may at any time after the filing of the application and before the expiration of the license, require further written statements and may make such inspections as the board of health may deem necessary in order to determine whether the license should be granted or denied or whether the license should be modified, suspended or revoked. All applications and statements shall be signed by the applicant or licensee. The board of health may require any applications or statements to be made under oath or affirmation;

Inspections and written statements.

Form.

(3) Each license shall be in such form and contain such terms and conditions as the board of health may by rule or regulation prescribe;

Non-assignable.

(4) No license issued pursuant to the provisions of this act and no right to possess or utilize sources of ionizing radiation granted by any license shall be assigned or in any manner disposed of;

Terms subject to amendment.

(5) The terms and conditions of all licenses shall be subject to amendment, revision, or modification by rules, regulations or orders issued in accordance with the provisions of this act;

Registration of persons not requiring specific license.

(6) The board of health may require registration and inspection of persons dealing with sources of ionizing radiation which do not require a specific license and may require compliance with specific safety standards to be promulgated by the board of health;

Exemptions.

(7) The board of health is authorized to exempt certain users from the licensing or registration require-

HeinOnline -- 1967 vol. I 193 1967

ments set forth in this section when the board of health makes a finding that the exemption of such users will not constitute a significant risk to the health and safety of the public;

Secret processes not disclosed.

(8) Any report of investigation or inspection, or any information concerning trade secrets or secret industrial processes obtained under this act shall not be disclosed or opened to public inspection except as may be necessary for the performance of the functions of the board of health;

Recognition of other licenses.

(9) Rules and regulations promulgated pursuant to this act may provide for recognition of other state or federal licenses as the board of health may deem desirable, subject to such registration requirements as the board of health may prescribe.

Inspection.

Section 7. **Inspection.** The board of health or its duly authorized representatives shall have the power to enter at all reasonable times upon any private or public property within the jurisdiction of the board of health, other than a private dwelling, for the purpose of determining whether or not there is compliance with or violation of the provisions of this act and rules and regulations promulgated thereunder, and the owner, occupant, or person in charge of such property shall permit such entry and inspection. Entry into areas under the jurisdiction of the federal government shall be effected only with the concurrence of the federal government or its duly designated representative.

Records— when required.

Section 8. **Records.** (1) The board of health shall require each person who acquires, possesses or uses a source of ionizing radiation to maintain records relating to its receipt, storage, transfer, or disposal and such other records as the board of health may require, subject to such exemptions as may be provided by rules and regulations;

(2) The board of health shall require each person who acquires, possesses, or uses a source of ionizing radiation to maintain appropriate records showing the radiation exposure of all individuals for whom personnel monitoring is required by rules and regulations of the board of health. Copies of these records and those required to be kept by subsection (1) of this section shall be submitted to the board of health on request;

HeinOnline -- 1967 vol. I 194 1967

(3) The board of health shall adopt reasonable regulations, compatible with those of the United States atomic energy commission, or the national committee on radiation protection, pertaining to reports of exposure of personnel to radiation. Such regulations shall require that reports of excessive exposure be made to the individual exposed and to the board of health, and shall make provision for periodic and terminal reports to individuals for whom personnel monitoring is required; Regulations pertaining to records of exposure. Reports.

(4) The provisions of this act shall not be construed to limit the kind or amount of radiation that may be intentionally applied to a person for diagnostic or therapeutic purposes by or under the direction of a licensed practitioner of the healing arts. Exception.

Section 9. **Federal-state agreements.** (1) The governor, on behalf of this state, is authorized to enter into agreements with the federal government providing for discontinuance of certain of the federal government's responsibilities with respect to sources of ionizing radiation and the assumption thereof by this state; Federal-state agreements.

(2) Any person who, on the effective date of an agreement under subsection (1) of this section, possesses a license issued by the federal government shall be deemed to possess the same pursuant to this act, which shall expire either ninety (90) days after receipt from the board of health of a notice of expiration of such license, or on the date of expiration specified in the federal license, whichever is earlier.

Section 10. **Inspection agreements and training programs.** (1) The board of health on behalf of the state of Montana may enter into an agreement or agreements with the federal government, other states or interstate agencies, whereby this state shall perform on a cooperative basis with the federal government, other states or interstate agencies, inspections or other functions relating to control of sources of ionizing radiation; Inspection agreements.

(2) The board of health and any other appropriate state agency may institute training programs for the purpose of qualifying personnel to carry out the provisions of this act and may make said personnel available for participation in any program or programs of the federal government, other states or interstate agencies in furtherance of the purposes of this act. Training programs.

HeinOnline -- 1967 vol. I 195 1967

Conflicting laws.

Section 11. **Conflicting laws.** Ordinances, resolutions or regulations now or hereafter in effect of the governing body of a municipality or county relating to by-product, source and special nuclear materials shall not be superseded by this act; provided, that such ordinances or regulations are and shall continue to be consistent with the provisions of this act, amendments thereto, and rules and regulations thereunder.

Administrative procedure and judicial review.

Section 12. **Administration procedure and judicial review.** (1) In any proceeding under this act for granting, suspending, revoking or amending any license, or for determining compliance with, or granting exceptions from, rules and regulations promulgated in accordance with this chapter, the board of health shall first afford an opportunity for a hearing on the record upon the request of any person whose interest may be affected by the proceeding, and shall admit any such person as a party to such proceeding;

Emergency.

(2) Whenever the board of health finds that an emergency exists requiring immediate action to protect the public health and safety, the board of health may, without notice or hearing, issue a regulation or order reciting the existence of such emergency and requiring that such action be taken as is deemed necessary to meet the emergency. Notwithstanding any provision of this act to the contrary, such regulation or order shall become

Hearing.

effective immediately. Any person to whom such regulation or order is directed shall comply therewith immediately, but, on application to the board of health, shall be afforded a hearing promptly after application has been made. On the basis of such a hearing the emergency regulation or order shall be continued, modified, or revoked within thirty (30) days after such hearing or when the emergency no longer exists.

Prohibited uses.

Section 13. **Prohibited uses.** It shall be unlawful for any person to use, manufacture, produce, or knowingly transport, transfer, receive, acquire, own or possess any source of ionizing radiation unless such person is licensed by or registered with the board of health in accordance with the provisions of this act, rules and regulations issued hereunder.

Impounding of materials.

Section 14. **Impounding of materials.** The board of health shall have the authority in the event of an emer-

HeinOnline -- 1967 vol. I 196 1967

gency to impound or order the impounding of sources of ionizing radiation, in the possession of any person who is not equipped to observe or who fails to observe the provisions of this act or any rules or regulation promulgated thereunder.

Section 15. **Exemptions.** This act shall not apply to the following sources or conditions: Exemptions.

(1) Electrical equipment that is not intended primarily to produce radiation, and that, by nature of design, does not produce radiation at the point of nearest approach at a weekly rate higher than one-tenth (1/10) the appropriate limit for any critical organ exposed. The production testing or production servicing of such equipment shall not be exempt; Electrical equipment.

(2) Radiation machines during process of manufacture, or in storage or transit; Manufacture, transit and storage.

(3) Any radioactive material while being transported in conformity with regulations adopted by the atomic energy commission, or any successor thereto, or the interstate commerce commission, and specifically applicable to the transportation of such radioactive materials; Transportation.

(4) No exemptions under this section are granted for those quantities or types of activities which do not comply with the established rules and regulations promulgated by the atomic energy commission, or by any successor thereto. Exemptions excluded.

Section 16. **Penalties.** No person shall acquire, own, possess or use any radioactive by-product material, source material, special nuclear materials or other radioactive materials occurring naturally or produced artificially, without having been granted a license therefor from the board of health or transfer to another or dispose of said materials without first having been granted approval of the board of health therefor, in accordance with the administrative rules and regulations of the board of health. Penalties.

Any person who violates this section is guilty of a misdemeanor punishable by a fine of not less than one hundred dollars ($100) and not more than one thousand dollars ($1,000), or by confinement in the county jail of not less than thirty (30) days and not more than ninety (90) days, or by both such fine and imprisonment.

HeinOnline -- 1967 vol. I 197 1967

Repealing clause.

Section 17. **Repealing clause.** All acts and parts of acts in conflict herewith are hereby repealed.

Approved: February 21, 1967.

CHAPTER 109

An Act Amending Section 59-1105, R.C.M. 1947, and Section 59-1106, R.C.M. 1947, as Amended by Section 5, Chapter 248, Laws of 1965, to Provide for the Investment of the Social Security Contribution Fund in Investments of the Character Authorized for the Long Term Investment Fund, and to Permit the Deposit of Interest Earned Thereon to the Earmarked Revenue Fund, Social Security Division Account, for Use in Administering Sections 59-1101 Through 59-1113, R.C.M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 59-1105, R.C.M. 1947, is amended to read as follows:

Contribution account—to include.

"59-1105. **Contribution account.** (a) There is hereby established, in place of the fund known as the contribution fund, a contribution account in the agency fund. Such account shall consist of and there shall be deposited in such account:

(1) all contributions, interest and penalties collected under sections 59-1103.1 and 59-1104;

(2) all moneys appropriated thereto by the legislative assembly of the state of Montana; *and*

(3) all sums recovered upon the bond of the custodian or otherwise for losses sustained by the account and all other moneys received for the account from any other source.

Power and authority of agency over account.

All moneys in the account shall be mingled and undivided. Subject to the provisions of this act, the state agency is vested with full power, authority and jurisdiction over the account, including all moneys and property

Investments.

or securities belonging thereto*; it shall invest the same in investments of the same character as are permitted by section 79-1202 of this code for the investment of moneys*

HeinOnline -- 1967 vol. I 198 1967

in the long term investment fund and shall credit all interest and income heretofore or hereafter earned thereon in excess of that which, in the judgment of the state agency, may be needed for the purposes set forth in subdivision (b) of this section, to the earmarked revenue fund, social security division account, to be used by it either to defray the costs of administering this chapter, or for distribution pro rata to the contributing state departments, political subdivisions, school districts and instrumentalities, as it may determine, and may perform any and all acts whether or not specifically designated, which are necessary to the administration thereof and are consistent with the provisions of this act.

Interest.

Necessary acts.

(b) The contribution account shall be used and administered exclusively for the purpose of this act. *Subject to the provisions of subdivision (a) of this section,* withdrawals from such account shall be made for, and solely for (A) payment of amounts required to be paid to the secretary of the treasury of the United States pursuant to an agreement entered into under section 59-1103; (B) payment of refunds provided for in section 59-1103.1; and (C) refunds of overpayments, not otherwise adjustable, made by a political subdivision or instrumentality.

Withdrawals —purpose.

(c) From the contribution account the custodian of the account shall pay to the secretary of the treasury of the United States such amounts and at such time or times as may be directed by the state agency in accordance with any agreement entered into under section 59-1102.1 and the Social Security Act.

Payments to United States treasury.

(d) The treasurer of the state shall pay all warrants drawn upon the state agency in accordance with the provisions of this section and with such regulations as the state agency may prescribe pursuant thereto.

Treasurer to pay warrants.

(e) Each department of the state shall include in its operating budget for the next succeeding fiscal year, prepared and delivered to the controller in accordance with the provisions of law, an estimate of the amount which it will be required to contribute to the contribution account."

Estimated contribution.

Section 2. Section 59-1106, R.C.M. 1947, as amended by section 5, chapter 248, Laws of 1965, is amended to read as follows:

Amending clause.

"59-1106. **Costs of administration.** All costs allocable to the administration of this chapter shall be charged to

Costs of administration.

HeinOnline -- 1967 vol. I 199 1967

the earmarked revenue fund, social security division account, *and so much of such costs as are not defrayed by interest and income earned upon the contributions fund which has been credited to said earmarked revenue fund, social security division account, as provided in section 59-1105, shall be paid to the state agency for deposit to the earmarked revenue fund, social security division account* by each department of the state and by the participating divisions and instrumentalities and political subdivisions of the state pro rata according to their respective contributions."

Repealing clause.

Section 3. All acts and parts of acts in conflict herewith are repealed.

Effective immediately.

Section 4. This act shall be effective from and after its passage and approval.

Approved: February 21, 1967.

CHAPTER 110

An Act Providing for Service of Summons in Justices' Courts According to Montana Rules of Civil Procedure, Rule 4D (2), (3), (4), (5), (8), (9); Amending Section 93-6711, R.C.M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 93-6711, R.C.M. 1947, is amended to read as follows:

Service of summons out of county where issued—justice court.

"93-6711. **Service of summons.** The summons may be served by a sheriff or constable of any of the counties of this state; provided, that when a summons issued by a justice of the peace is to be served out of the county in which it was issued, the summons shall have attached to it a certificate under seal by the county clerk of the county in which it was issued, to the effect that the person issuing the same was an acting justice of the peace at the date of the summons; or the summons may be served by any male person resident in the state, over the age of eighteen *(18)* years, not a party to the suit, and must be served and returned as provided in *Montana Rules of Civil Procedure, Rule 4D (2), (3), (4), (8), and (9);* or it may be served by publication, *provided in Mon-*

HeinOnline -- 1967 vol. I 200 1967

tana Rules of Civil Procedure, Rule 4D (5) and (8), so far as they relate to publication of summons, are made applicable to justices' courts; the word 'justice' being substituted for the word 'clerk' whenever the latter word occurs."

Approved: February 21, 1967.

CHAPTER 111

An Act to Amend Section 68-1413, R.C.M. 1947; to Require Twenty-five (25) Years Creditable Service to Qualify for One-Half (½) of Average Final Salary in the State Game Warden Retirement System.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 68-1413, R.C.M. 1947, is amended to read as follows: Amending clause.

"68-1413. **Retirement allowance.** Upon retirement from service a service retirement allowance shall consist of the state annuity plus the member's annuity. The member's annuity shall be the actuarial equivalent of his aggregate contributions at the time of his retirement and the state annuity shall be in an amount which, when added to the member's annuity, will provide a total retirement allowance of one-half (½) of his average final salary *with twenty-five (25) years' service.''* Retirement allowance.

Approved: February 21, 1967.

CHAPTER 112

An Act to Amend Initiative Measure No. 54 Adopted by the Vote of the Legal Electors of the State of Montana at the Regular Election Held in the State of Montana on November 7, 1950, as Amended by Chapter 270, Session Laws of 1963, Relating to Section 9 Thereof, by Providing a New Date for the Submission of Applications for Payment of the World War I Honorarium to Wit: January 1, 1968; Repealing All Acts and Parts of Acts in Conflict Herewith; Providing an Effective Date.

HeinOnline -- 1967 vol. I 201 1967

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 9, chapter 270, Laws of 1963, is amended to read as follows:

Applications for W. W. I honorarium to be submitted by January 1, 1968.

"Section 9. Claims for benefits under the provisions of *subdivision (1) of* section 2, and *or under section* 3 of *said* Initiative No. 54, as by this amendatory act amended, may be filed at any time before the expiration of *four (4)* years *from and* after the January first next following the date of the passage and approval of this act, *provided,* however, *that said period of four (4) years* shall be extended for a period equal to the period, or the aggregate of the periods, of the time during which the administration of this act shall be suspended, by reason of litigation or from any other cause."

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Effective immediately.

Section 3. This act shall be in full force and effect upon its passage and approval.

Approved: February 21, 1967.

CHAPTER 113

An Act Amending Section 40-4211, Revised Codes of Montana, 1947, Relating to Credit Life and Disability Insurance Premiums and Refunds; Adding a Provision That Premiums Charged a Debtor for Credit Life and Disability Insurance Not Exceed Premiums Charged by the Insurer.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 40-4211 of the Revised Codes of Montana, 1947, be amended to read as follows:

Premiums and refunds.

"40-4211. **Premiums and refunds.** (1) Each insurer issuing credit life insurance or credit disability insurance shall file with the commissioner its schedules of premium rates for use in connection with such insurance. Any insurer may revise such schedules from time to time, and shall file such revised schedules with the commissioner. No insurer shall issue any credit life insurance policy or credit disability insurance policy for which the premium

Revision of schedules.

HeinOnline -- 1967 vol. I 202 1967

rate exceeds that determined by the schedules of such insurer as then on file with the commissioner. The commissioner may require the filing of the schedule of premium rates for use in connection with and as a part of the specific policy filings as provided by section 40-4210.

Filing of rates.

(2) Each individual policy, group certificate or notice of proposed insurance of credit life insurance and credit disability insurance shall provide that in the event of termination of the insurance prior to the scheduled maturity date of the indebtedness, any refund of premium due shall be paid or credited promptly to the person entitled thereto; provided, however, that the commissioner shall prescribe a minimum refund and no refund which would be less than such minimum need be made. The formula to be used in computing refunds shall be filed with the commissioner.

Policies to provide for refund of premium.

Minimum refund.

(3) If a creditor requires a debtor to make a payment in connection with credit life insurance or credit disability insurance and an individual policy or group certificate of insurance is not issued, the creditor shall immediately give written notice to such debtor and shall promptly make an appropriate credit to the account.

Non-issuance refund.

(4) The amount charged to a debtor for any credit life or credit disability insurance shall not exceed the premiums charged by the insurer, as computed at the time the charge to the debtor is determined.''

Premium limitation.

Approved: February 21, 1967.

CHAPTER 114

An Act to Amend Section 53-106.7, R.C.M. 1947, Enacted as Section 1, Chapter 135 Laws of 1965, Relating to Distinctive Plates for National Guardsmen.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 53-106.7, Revised Codes of Montana, 1947, enacted as section 1, chapter 135, Laws of 1965, relating to distinctive plates for national guardsmen, is amended to read as follows:

Amending clause.

HeinOnline -- 1967 vol. I 203 1967

Distinctive plates for national guardsmen—description—issuance.

"53-106.7. **Distinctive plates for national guardsmen.** In addition to the regular license plates prescribed by law, there may be issued to each active member of the Montana national guard, distinctive license plates, bearing the words 'national guard' and 'Montana,' said plates to be numbered in sets of two with a different number following the letters 'NG.' Plates shall be furnished by the registrar of motor vehicles to the adjutant general, and by him, issued to the members of the active guard. The adjutant general shall inform the said registrar of each set so issued, giving the number of the license, the name, unit and home address of the member to whom issued, and shall be responsible for the recovery of said plates and notification to the registrar upon the member becoming ineligible to use them. Plates so issued shall be placed or mounted on the vehicle over the regular license plate, and shall be removed upon sale or other disposition of the vehicle. Said distinctive plates shall be renewed *every five (5) years or when lost, destroyed or damaged.*"

Approved: February 21, 1967.

CHAPTER 115

An Act Amending Section 6-402, R.C.M. 1947, Relating to Materialmen Supplying Subcontractor to Give Notice to Contractor, to Extend Notice Period and Allow Notice by Certified Mail.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 6-402, R.C.M. 1947, is amended to read as follows:

Notice to contractor of furnishing materials.

"6-402. **Notice to contractor of furnishing provender, material or supplies required.** Every person, firm or corporation furnishing provender, provisions, materials or supplies to be used in the construction, performance, carrying on, prosecution or doing of any work for the state, or any county, city, town, district, municipality or other public body, shall not later than *thirty (30)* days after the date of the first delivery of such provender, material, supplies or provisions to any subcontractor or agent of any person, firm or corporation having a subcontract for the construction, performance, carrying on,

Within 30 days.

HeinOnline -- 1967 vol. I 204 1967

prosecution or doing of such work, deliver or send by *certified* mail to the contractor a notice in writing stating in substance and effect that such person, firm or corporation has commenced to deliver provender, provisions, materials or supplies for use thereon, with the name of the subcontractor or agent ordering or to whom the same is furnished, and that such contractor and his bond will be held for the same, and no suit or action shall be maintained in any court against the contractor or his bond to recover for such provender, provisions, material or supplies, or any part thereof, unless the provisions of this act have been complied with.''

Certified mail.

Approved: February 21, 1967.

CHAPTER 116

An Act to Require the State Controller to Schedule the State's Building Program in Such a Manner as to Minimize the Importance of Weather on Construction and to Stabilize the Work Opportunities of the Construction Labor Force.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. The state controller shall, by careful advance planning, ordering of construction priorities, consultation with architects, and timing of bid lettings, direct the building program of the state in such a manner as to reduce to a minimum the effects of weather on construction and to stabilize as far as possible the work opportunities of the construction labor force.

State controller to schedule building to reduce weather effect and stabilize work opportunities.

Approved: February 21, 1967.

CHAPTER 117

An Act Authorizing School Boards to Make and Provide an Appropriation in School Budgets for Payment to a Reserve Fund for Teachers' Retirement Not to Exceed Thirty-five Percent (35%) of the Total Amount Budgeted Annually for the Retirement Fund to Be Used for Payment of Teachers' Retirement Expenses Incurred at the Beginning of Each School Year.

HeinOnline -- 1967 vol. I 205 1967

Be it enacted by the Legislative Assembly of the State of Montana:

Reserve for teachers' retirement fund.

Section 1. The board of trustees of school districts and county high schools may in their respective budgets make and provide an appropriation for payments to a reserve fund for teachers' retirement not to exceed thirty-five percent (35%) of the total amount budgeted annually for the retirement fund.

Use of reserve fund.

Section 2. The reserve fund may be used for the purpose of paying teachers' retirement expenses incurred at the beginning of each school year when funds for this purpose are not available as budgeted. The funds shall not be used for any other purpose.

Approved: February 21, 1967.

CHAPTER 118

An Act Providing the Absence of a Regularly Enrolled Student After Ten (10) Days Shall Not Be Counted in the Aggregate Days of Absence to Determine the Average Number Belonging; Amending Section 75-3611, R.C.M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 75-3611, R.C.M. 1947, is amended to read as follows:

"Average number belonging" or "ANB."

"75-3611. **Definitions—schedules of financial program.** The term 'average number belonging' or 'ANB' shall mean the average number of regularly enrolled, full-time pupils attending a public school, or attending public schools in a school district as a whole, which average number shall be computed by dividing the sum of the aggregate days of attendance by regularly enrolled pupils and the aggregate days of absence by regularly enrolled pupils during the last completed school year, by the number one hundred eighty (180); providing that attendance for a part of a morning session or part of an afternoon session shall be counted as one-half (½) day's attendance in either case, and provided further, when any regularly enrolled pupil has been absent, with or without excuse, for more than *ten (10)* consecutive school days in such school year, his absence after the *tenth (10th)* day and until his return

HeinOnline -- 1967 vol. I 206 1967

to school shall not be included in the aggregate days of absence. The average number belonging of secondary pupils of a school district or of elementary pupils of a school district does not include the pupils of any high school or of any elementary school which has not been accredited by the state board of education. Pupils of a junior high school which has been duly approved and accredited as such by the state board of education are to be deemed secondary school pupils for the purpose of computing average number belonging of the district in which the junior high school is situated.

Reopening.

Any school district may reopen a school which was not in operation the previous year, which such reopening is approved by the county budget board and the state superintendent of public instruction, and when the county superintendent estimates the probable enrollment for such school to be at least five (5), and the parents of at least three (3) of these five (5) children petition for such reopening; such approved reopened school shall be eligible for county and state aid on its foundation program. Any school district which opens a new school shall comply with at least the minimum requirements for reopening a closed school as herein provided, and no foundation program shall be established for any new school not meeting the minimum requirements for opening.

Increase in ANB.

Should a school district anticipate an increase in ANB, above the normal state-wide increase of the past year, due to the closing of any private or public school in the district or in neighboring districts, such district shall be allowed an increase in ANB for budget purposes, based on an estimate arrived at by the district superintendent, board and county superintendent and approved by the state superintendent.

"Minimum foundation program" and "Foundation program."

The terms, 'minimum foundation program' and 'foundation program,' shall mean the amount required to operate and maintain an adequate and efficient school, as fixed and established by the schedules of minimum operating revenues set forth in section 75-3612.

"Isolated school."

The term 'isolated school,' shall mean an elementary school having an ANB of nine (9) or less pupils, the maintenance and operation of which as an isolated school has been approved in the manner hereinafter provided in section 75-3617; and the term, 'isolated high school,' shall mean a high school having an ANB of twenty-four (24) or

"Isolated high school."

HeinOnline -- 1967 vol. I 207 1967

less pupils, the maintenance and operation of which as an isolated school has been approved in the manner hereinafter provided in section 75-3617.

"Nonisolated school."

The term, 'nonisolated school,' shall mean an elementary school having an ANB of less than ten (10) pupils, which has not been approved as an isolated school; and the term,

"Nonisolated high school."

'nonisolated high school,' shall mean a high school having an ANB of twenty-four (24) or less pupils, which has not been approved as an isolated high school."

Approved: February 21, 1967.

CHAPTER 119

An Act Approving and Enacting Into Law the Interstate Library Compact and Designating the Executive Officer of the State Library Commission as Compact Administrator for Said Compact.

Be it enacted by the Legislative Assembly of the State of Montana:

Interstate library compact established.

Section 1. The Interstate Library Compact is hereby approved, enacted into law, and entered into by the state of Montana, which compact is in full as follows:

INTERSTATE LIBRARY COMPACT

Policy and purpose.

Article I. Policy and Purpose

Because the desire for the services provided by libraries transcends governmental boundaries and can most effectively be satisfied by giving such services to communities and people regardless of jursidictional lines, it is the policy of the state's party to this compact to cooperate and share their responsibilities; to authorize cooperation and sharing with respect to those types of library facilities and services which can be more economically or efficiently developed and maintained on a cooperative basis; and to authorize cooperation and sharing among localities, states and others in providing joint or cooperative library services in areas where the distribution of population or of existing and potential library resources make the provision of library service on an interstate basis the most effective way of providing adequate and efficient service.

HeinOnline -- 1967 vol. I 208 1967

Article II. Definitions

Definitions.

As used in this compact:

(a) "Public library agency" means any unit or agency of local or state government operating or having power to operate a library.

"Public library agency."

(b) "Private library agency" means any nongovernmental entity which operates or assumes a legal obligation to operate a library.

"Private library agency."

(c) "Library agreement" means a contract establishing an interstate library district pursuant to this compact or providing for the joint or cooperative furnishing of library services.

"Library agreement."

Article III. Interstate Library Districts

Interstate library districts.

(a) Any one or more public library agencies in a party state in cooperation with any public library agency or agencies in one or more other party states may establish and maintain an interstate library district. Subject to the provisions of this compact and any other laws of the party states which pursuant hereto remain applicable, such district may establish, maintain and operate some or all of the library facilities and services for the area concerned in accordance with the terms of a library agreement therefor. Any private library agency or agencies within an interstate library district may cooperate therewith, assume duties, responsibilities and obligations thereto, and receive benefits therefrom as provided in any library agreement to which such agency or agencies become party.

(b) Within an interstate library district, and as provided by a library agreement, the performance of library functions may be undertaken on a joint or cooperative basis or may be undertaken by means of one or more arrangements between or among public or private library agencies for the extension of library privileges to the use of facilities or services operated or rendered by one or more of the individual library agencies.

Library agreement within district.

(c) If a library agreement provides for joint establishment, maintenance or operation of library facilities or services by an interstate library district, such district shall have power to do any one or more of the following in accordance with such library agreement:

Joint operation of facilities.

HeinOnline -- 1967 vol. I 209 1967

Program participation.

1. Undertake, administer and participate in programs or arrangements for securing, lending or servicing books and other publications, any other materials suitable to be kept or made available by libraries, library equipment or for the dissemination of information about libraries, the value and significance of particular items therein, and the use thereof.

Financial assistance.

2. Accept for any of its purposes under this compact any and all donations, and grants of money, equipment, supplies, materials, and services, (conditional or otherwise), from any state or the United States or any subdivision or agency thereof, or interstate agency, or from any institution, person, firm or corporation, and receive, utilize and dispose of the same.

Mobile units.

3. Operate mobile library units or equipment for the purpose of rendering bookmobile service within the district.

Personnel.

4. Employ professional, technical, clerical and other personnel, and fix terms of employment, compensation and other appropriate benefits; and where desirable, provide for the in-service training of such personnel.

Legal standing.

5. Sue and be sued in any court of competent jurisdiction.

Acquire property.

6. Acquire, hold, and dispose of any real or personal property or any interest or interests therein as may be appropriate to the rendering of library service.

Establish library.

7. Construct, maintain and operate a library, including any appropriate branches thereof.

Appropriate actions.

8. Do such other things as may be incidental to or appropriate for the carrying out of any of the foregoing powers.

Interstate library districts and governing board.

Article IV. Interstate Library Districts, Governing Board

(a) An interstate library district which establishes, maintains or operates any facilities or services in its own right shall have a governing board which shall direct the affairs of the district and act for it in all matters relating to its business. Each participating public library agency in the district shall be represented on the governing board which shall be organized and conduct its business in accordance with provision therefor in the library

HeinOnline -- 1967 vol. I 210 1967

agreement. But in no event shall a governing board meet less often than twice a year.

(b) Any private library agency or agencies party to a library agreement establishing an interstate library district may be represented on or advise with the governing board of the district in such manner as the library agreement may provide.

Article V. State Library Agency Cooperation

State library agency cooperation.

Any two or more state library agencies of two or more of the party states may undertake and conduct joint or cooperative library programs, render joint or cooperative library services, and enter into and perform arrangements for the cooperative or joint acquisition, use, housing and disposition of items or collections of materials which, by reason of expense, rarity, specialized nature, or infrequency of demand therefor would be appropriate for central collection and shared use. Any such programs, services or arrangements may include provision for the exercise on a cooperative or joint basis of any power exercisable by an interstate library district and an agreement embodying any such program, service or arrangement shall contain provisions covering the subjects detailed in Article VI of this compact for interstate library agreements.

Article VI. Library Agreements

Library agreements.

(a) In order to provide for any joint or cooperative undertaking pursuant to this compact, public and private library agencies may enter into library agreements. Any agreement executed pursuant to the provisions of this compact shall, as among the parties to the agreement:

Agreement to contain.

1. Detail the specific nature of the services, programs, facilities, arrangements or properties to which it is applicable.

2. Provide for the allocation of costs and other financial responsibilities.

3. Specify the respective rights, duties, obligations and liabilities of the parties.

4. Set forth the terms and conditions for duration, renewal, termination, abrogation, disposal of joint or common property, if any, and all other matters which

HeinOnline -- 1967 vol. I 211 1967

may be appropriate to the proper effectuation and performance of the agreement.

No action prohibited by law.

(b) No public or private library agency shall undertake to exercise itself, or jointly with any other library agency, by means of a library agreement any power prohibited to such agency by the constitution or statutes of its state.

Agreement effective—when.

(c) No library agreement shall become effective until filed with the compact administrator of each state involved, and approved in accordance with Article VII of this compact.

Approval of library agreements.

Article VII. Approval of Library Agreements

(a) Every library agreement made pursuant to this compact shall, prior to and as a condition precedent to its entry into force, be submitted to the attorney general of each state in which a public library agency party thereto is situated, who shall determine whether the agreement is in proper form and compatible with the laws of his state. The attorneys general shall approve any agreement submitted to them unless they shall find that it does not meet the conditions set forth herein and shall detail in writing addressed to the governing bodies of the public library agencies concerned the specific respects in which the proposed agreement fails to meet the requirements of law. Failure to disapprove an agreement submitted hereunder within ninety days of its submission shall constitute approval thereof.

Attorneys general to approve.

Approval by officer of agency having control.

(b) In the event that a library agreement made pursuant to this compact shall deal in whole or in part with the provision of services or facilities with regard to which an officer or agency of the state government has constitutional or statutory powers of control, the agreement shall, as a condition precedent to its entry into force, be submitted to the state officer or agency having such power of control and shall be approved or disapproved by him or it as to all matters within his or its jurisdiction in the same manner and subject to the same requirements governing the action of the attorneys general pursuant to paragraph (a) of this article. This requirement of submission and approval shall be in addition to and not in substitution for the requirement of submission to and approval by the Attorneys General.

HeinOnline -- 1967 vol. I 212 1967

Article VIII. Other Laws Applicable

Other laws applicable.

Nothing in this compact or in any library agreement shall be construed to supersede, alter or otherwise impair any obligation imposed on any library by otherwise applicable law, nor to authorize the transfer or disposition of any property held in trust by a library agency in a manner contrary to the terms of such trust.

Article IX. Appropriations and Aid

Appropriations and aid.

(a) Any public library agency party to a library agreement may appropriate funds to the interstate library district established thereby in the same manner and to the same extent as to a library wholly maintained by it and, subject to the laws of the state in which such public library agency is situated, may pledge its credit in support of an interstate library district established by the agreement.

(b) Subject to the provisions of the Library agreement pursuant to which it functions and the laws of the states in which such district is situated, an interstate library district may claim and receive any state and federal aid which may be available to library agencies.

Article X. Compact Administrator

Compact administrator.

Each state shall designate a compact administrator with whom copies of all library agreements to which his state or any public library agency thereof is party shall be filed. The Administrator shall have such other powers as may be conferred upon him by the laws of his state and may consult and cooperate with the compact administrators of other party states and take such steps as may effectuate the purposes of this compact. If the laws of a party state so provide, such state may designate one or more deputy compact administrators in addition to its compact administrator.

Article XI. Entry Into Force and Withdrawal

Entry into force and withdrawal.

(a) This compact shall enter into force and effect immediately upon its enactment into law by any two states. Thereafter, it shall enter into force and effect as to any other state upon the enactment thereof by such state.

(b) This compact shall continue in force with respect to a party state and remain binding upon such state until

HeinOnline -- 1967 vol. I 213 1967

six months after such state has given notice to each other party state of the repeal thereof. Such withdrawal shall not be construed to relieve any party to a library agreement entered into pursuant to this compact from any obligation of that agreement prior to the end of its duration as provided therein.

Construction and severability.

Article XII. Construction and Severability

This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any party state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state party thereto, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

Designation of compact administrator.

Section 2. The executive officer of the state library commission shall be the compact administrator of the Interstate Library Compact.

Approved: February 23, 1967.

CHAPTER 120

An Act Amending Section 16-1009, R.C.M. 1947, to Permit County Commissioners to Sell Property Valued at One Hundred Dollars or Less for Real Property and One Thousand Dollars or Less for Personal Property at a Private Sale Without Publication of Notice.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 16-1009, R.C.M. 1947, is amended to read as follows:

Sale of property.

"16-1009. **Sale of property.** (1) The board of county commissioners of the several counties in this state shall have the power to sell any property, real or personal, however acquired, belonging to the county, and which is

HeinOnline -- 1967 vol. I 214 1967

not necessary to the conduct of the county's business or the preservation of its property. If the property, real or personal, sought to be sold, is reasonably of a value in excess of one hundred ($100.00) dollars *for real property or a value of one thousand dollars ($1,000) for personal property,* the sale shall be at public auction at the courthouse door after previous notice given by publication in a newspaper published in said county, notice to be published once a week for four successive weeks and posted in five (5) public places in the county. The sale shall be for cash, or on such terms as the board of county commissioners may approve, provided at least twenty per cent (20%) of the purchase price shall be paid in cash. In all sales of property of a value in excess of one hundred ($100.00) dollars *for real property and of one thousand dollars ($1,000) for personal property,* there must before any sale be an appraisal thereof by the board and at a price representing a fair market value of such property, and such appraised value shall be stated in the notice of sale, provided, that whenever a county purchases equipment, as provided in section 16-1803, Revised Codes of Montana, 1947, county equipment which is not necessary to the conduct of the county business may be traded in as part of the purchase price after appraisal as herein provided, or may be sold at public auction as herein provided, in the discretion of the board of county commissioners.

Value—real and personal property —public auction.

Notice.

Sale—terms.

Appraisal.

(2) The board of county commissioners shall have the power to sell any property, real or personal, however acquired, belonging to the county and which is not necessary to the conduct of the county's business or the preservation of its property, to the school district directly for its appraised value which shall represent a fair market value of such property without the necessity of a public auction. If the property to be sold to the school district is reasonably of a value in excess of one hundred ($100.00) dollars *for real property and of one thousand dollars ($1,000) for personal property,* notice of the sale shall be given by publication in a newspaper in said county, notice to be published once a week for four (4) successive weeks and posted in five (5) public places in the county.

Sale to school district.

Notice.

(3) Any taxpayer who may believe that such appraised value is less than the actual value of the property, may at any time before the day fixed for the sale of such property, file with the board of county commissioners

Objections to appraised value.

HeinOnline -- 1967 vol. I 215 1967

Re-appraisal. written objections to such appraised value. When any such objection is filed it vacates the sale and the board of county commissioners must at once apply to the judge of the Appraisers. district court to have such property re-appraised. Upon such application the district judge shall appoint for such purpose three (3) disinterested persons whose appraisal must be made and filed with the county clerk and recorder, which new appraisal or re-appraisal shall be used in the Compensation. next sale of such property. Such appraisers, when appointed by the district judge, and after filing their appraisal report with the county clerk and recorder, shall be allowed five dollars ($5.00) per day for each day necessarily employed in making such appraisal, and their Sale requirements. necessary and actual expenses. No sale shall be made at public auction or to any school district without public auction of any property unless it has been appraised within three (3) months prior to the date of the sale, and no such sale shall be made for less than ninety per cent (90%) of the appraised value.

Private sale. (4) If no bid or offer is made for any property offered for sale at public auction, after appraisal and notice given, as provided herein, the board of county commissioners may, at any time thereafter, sell such property at private sale, and may on such private sale accept as the purchase price therefor an amount not less than ninety Deferred payments. per cent (90%) of the appraised value thereof. All deferred payments on the purchase price of any property sold, shall bear interest at the rate of six per cent (6%) per annum, payable annually and may be extended over a period of not more than five (5) years. If the property to be sold is reaonably of a value of less than one hundred dollars ($100.00) *for real property and one thousand dollars ($1,000) for personal property,* sale thereof may be had at either public or private sale, as in the discretion of the board of county commissioners, may appear to be Notice. to the best interests of the county. If it be at public sale, notice shall be given by posting in five (5) public places in the county at least five (5) days before the date of sale. Title to pass —when. No title to any property sold under the provisions hereof, shall pass from the county until the purchaser, or his assigns, shall have paid the full amount of the purchase price therefor, into the county treasury for the use and benefit of the county.

Sale or exchange after one year—same county. (5) Provided, however, if within one (1) year no immediate sale be had of real estate attempted to be sold

HeinOnline -- 1967 vol. I 216 1967

under the provisions of this section, the board of county commissioners may make trades or exchanges of such real estate owned by the county for any other lands or real estate of equal value located within the same county.

(6) The funds derived from the sale in the discretion of the board of county commissioners may be credited to a construction reserve account and thereafter used for capital outlay for present or future construction of or an addition to a courthouse, or county jail or county hospital.''

Use of funds.

Approved: February 23, 1967.

CHAPTER 121

An Act Amending Section 81-502, R.C.M. 1947, as Amended by Chapter 257, Laws of 1965, to Increase the Maximum Term for Coal Mining Leases on State Lands to Twenty Years and to Increase the Fee for Issuing Such Leases to Five Dollars.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 81-502, R.C.M. 1947, as amended by chapter 257, laws of 1965, is amended to read as follows:

Amending clause.

"81-502. **Maximum term of lease—form—fee.** No coal mining lease shall be issued for a longer term than *twenty (20)* years, but the board may establish such rules and regulations for the renewal of a lease at the expiration of the term as it may deem proper and necessary. The board shall prescribe the form of the lease; the fee for issuing the lease and approving the bond hereinafter provided shall be *five dollars ($5.00)* payable to the commissioner."

Maximum term of coal mining lease—form—fee.

Approved: February 23, 1967.

CHAPTER 122

An Act Empowering the State Aeronautics Commission to Require Commercial Air Operators to Procure Insurance or Other Adequate Protection Against Liability

HeinOnline -- 1967 vol. I 217 1967

for the Payment of Damages for Personal Bodily Injuries, Including Death and Property Damage, as a Result of an Accident.

Be it enacted by the Legislative Assembly of the State of Montana:

"Commercial air operator."

Section 1. As used in this article "commercial air operator" means any person owning, controlling, operating, or managing aircraft for any commercial purpose for compensation.

"Aircraft."

Section 2. As used in this article, "aircraft" means any contrivance used for navigation of, or flight in, the air.

"Person."

Section 3. As used in this article, "person" means any individual, firm, partnership, private, municipal or public corporation, company, association, joint stock association, trustee, receiver, assignee, or other similar representative.

Commission to require adequate liability protection.

Section 4. The state aeronautics commission shall require every commercial air operator to procure, and continue in effect so long as the commercial air operator continues to offer his services for compensation, adequate protection against liability imposed by law upon a commercial air operator for the payment of damages for personal bodily injuries, including death resulting therefrom, and property damage as a result of an accident.

Commission to set limits of liability.

Section 5. The commission shall, after a public hearing, set the amount of liability insurance, required by section 4, which is reasonably necessary to provide adequate compensation for damage incurred through an accident involving a commercial air operator.

Evidence of protection— to include.

Section 6. The protection required under section 4 shall be evidenced either by the deposit with the commission, covering each aircraft used or to be used in commercial operations for compensation of:

(a) A copy of the policy of insurance, issued by a company authorized to write such insurance in the state; or

(b) A bond of a surety company authorized to write surety bonds in the state.

(c) Such evidence of the qualification of the commercial air operator as a self-insurer as may be authorized by the commission.

HeinOnline -- 1967 vol. I 218 1967

Copy of policy may be filed in lieu of original.

Section 7. With the consent of the commission a copy of an insurance policy, certified by the company issuing it to be a true copy of the original policy, or a photostatic copy thereof, or an abstract of the provisions of the policy, or a certificate of insurance issued by the company issuing the policy, may be filed with the commission in lieu of the original or a duplicate or counterpart of the policy.

Effective term of protection.

Section 8. The protection against liability shall be continued in effect so long as the commercial air operator continues to offer his services for compensation. The policy of insurance or surety bond shall not be cancelable on less than thirty (30) days written notice to the commission, except in the event of cessation of operations as a commercial air operator.

Rules.

Section 9. The commission may establish such rules as are necessary to enforce this article.

Violation.

Section 10. Any commercial air operator who knowingly refuses or fails to procure protection against liability, as required by section 4, within six (6) months from the effective date of this article shall be guilty of a misdemeanor, and each day during which said commercial air operator shall continue in such default shall constitute a separate offense.

Policy of unauthorized insurer.

Section 11. Notwithstanding the provisions of section 6, the commission shall have the authority to accept policies of insurance written by unauthorized insurers, provided that the policies of insurance shall meet the rules and regulations promulgated therefor by the commission.

Approved: February 23, 1967.

CHAPTER 123

An Act to Authorize Participation in the Child Nutrition Act of 1966 and Other Child Feeding Programs by the Superintendent of Public Instruction and School Boards; Amending Sections 75-4802, 75-4803, 75-4805 and 75-4806; Containing a Repealing Clause; and Providing an Effective Date.

HeinOnline -- 1967 vol. I 219 1967

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 75-4802, R.C.M. 1947, is amended to read as follows:

Expenditure of federal funds.

"75-4802. **Expenditure of federal funds.** The superintendent of public instruction is hereby authorized to accept and direct the disbursement of funds appropriated by act of Congress and apportioned to the state for use in connection with school lunch programs, under the "National School Lunch Act," approved June 4, 1946 (Public Law 396, 79th Congress, Chapter 281, 2nd Session), and any amendments thereto. *The superintendent of public instruction may also accept and disburse funds provided by any other acts of Congress providing for the feeding of children through the facilities of educational agencies, including the Child Nutrition Act of 1966 (Public Law 642, 89th Congress).* The superintendent of public instruction shall deposit all such funds received from the federal government *in a special account* with the treasurer of the state who shall deposit them in the federal and private grant clearance fund and make disbursements therefrom upon the direction of the superintendent of public instruction."

Superintendent of public instruction may accept funds.

Special account.

Amending clause.

Section 2. Section 75-4803, R.C.M., 1947, is amended to read as follows:

Administration of program.

"75-4803. **Administration of program.** The superintendent of public instruction may enter into such agreements with any agency of the federal government, with any school board, or with any other agency or person, prescribe such regulations, employ such personnel, and take such other action, as he may deem necessary to provide for the establishment, maintenance, operation, and expansion of any school lunch program, and to direct the disbursement of federal and state funds in accordance with any applicable provisions of federal or state law. The superintendent of public instruction may give technical advice and assistance to any school board in connection with the establishment and operation of any school lunch program and may assist in training personnel engaged in the operation of such program. The superintendent of public instruction and any school board may accept any gift for use in connection with any school lunch program. *Any or all of the foregoing powers also may be exercised in connection with any child nutrition program which may be carried on by educational agencies."*

Advice and assistance to school boards.

Gifts.

HeinOnline -- 1967 vol. I 220 1967

Section 3. Section 75-4805, R.C.M., 1947, is amended to read as follows: Amending clause.

"75-4805. **Authority of school board.** Any school board of any school is authorized to enter into contracts with the superintendent of public instruction for the purpose of obtaining funds, supplies and equipment, and facilities necessary to the establishment, operation and maintenance of a school lunch *or child nutrition* program in such school, and to operate or provide for the operation of school lunch *or child nutrition* programs in schools under their jurisdiction by using therefor funds disbursed to them under the provisions of this act, gifts and other funds received from sale of *food* under such programs, all in accordance with regulations prescribed by the superintendent of public instruction." Authority of school board.

Section 4. Section 75-4806, R.C.M., 1947, is amended to read as follows: Amending clause.

"75-4806. **Accounts, records, reports and operations.** The superintendent of public instruction shall prescribe regulations for the keeping of accounts and records and the making of reports by or under the supervision of school boards. Such accounts and records shall at all times be available for inspection and audit by authorized officials and shall be preserved for such period of time, not in excess of five (5) years, as the superintendent of public instruction may lawfully prescribe. The superintendent of public instruction shall conduct or cause to be conducted such audits, inspections, and administrative reviews of accounts, records, and operations with respect to school lunch *and child nutrition* programs as may be necessary to determine whether its agreements with school boards and regulations made pursuant to this act are being complied with, and to insure that school lunch *and child nutrition* programs are effectively administered." Accounts, records, reports and operations.

Section 5. All acts and parts of acts in conflict herewith are hereby repealed. Repealing clause.

Section 6. This act is effective on its passage and approval. Effective immediately.

Approved: February 23, 1967.

HeinOnline -- 1967 vol. I 221 1967

CHAPTER 124

An Act Amending Section 43-107, R.C.M. 1947 to Redefine Congressional Districts.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 43-107, R.C.M. 1947, is amended to read as follows:

Congressional districts.

"43-107. **Congressional districts.** *T*he counties of Beaverhead, Broadwater, Deer Lodge, Flathead, Gallatin, Granite, Jefferson, Lake, Lewis and Clark, Lincoln, Madison, Mineral, Missoula, Powell, Ravalli, Sanders, Silver Bow, *Glacier, Toole, Liberty, Pondera, Teton, Meagher, and Park* shall constitute the first congressional district of the state. *T*he counties of Big Horn, Blaine, Carbon, Carter, Cascade, Chouteau, Custer, Daniels, Dawson, Fallon, Fergus, Garfield, Golden Valley, Hill, Judith Basin, McCone, Musselshell, Petroleum, Phillips, Powder River, Prairie, Richland, Rosebud, Roosevelt, Sheridan, Stillwater, Sweet Grass, Treasure, Valley, Wheatland, Wibaux and Yellowstone shall constitute the second congressional district of the state.

Whenever any county is created, comprised partly of the territory of both such districts, said county shall belong to and become a part of the district to which major portion of the territory of said county belonged and was a part prior to the creation of such new county."

Approved: February 23, 1967.

CHAPTER 125

An Act Relating to Payments to Silicotics; Amending Sections 71-1003, 71-1004, and 71-1008, All Revised Codes of Montana, 1947, as Amended; Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 71-1003, Revised Codes of Montana, 1947, as last amended by chapter 267, Montana Session Laws, 1965, be, and the same is hereby amended to read as follows:

HeinOnline -- 1967 vol. I 222 1967

"71-1003. **Eligibility requirements for aid to persons having silicosis, as herein defined.** Payments shall be made under this act to any person who: Silicosis—eligibility requirements.

(a) Has silicosis, as defined in section 71-1001 *of the Revised Codes of Montana, 1947,* which results in his total disability so as to prevent him from engaging in a gainful occupation. The term "gainful occupation" as used herein shall not be construed to mean occasional or intermittent light employment where the ability to do manual labor is not essential, but shall mean any person having an income from any other source exceeding one hundred fifty dollars ($150.00) per month. Total disability. "Gainful occupation."

(b) Has resided in and been an inhabitant of the state of Montana for ten (10) years, or more, immediately preceding the date of the application. Resident.

(c) Has silicosis and is entitled to payments under this act, but who is not at the time of receiving a payment an inmate of a penal institution, or is not a patient or inmate of any institution for the treatment of mental diseases, or is not a patient in a medical institution as a result of having been diagnosed as having a psychosis. If the person to whom payment has been ordered to be paid is an inmate of Montana state tuberculosis sanatorium, then and in that case the payment herein provided for shall be made to his wife and children, if any. Exclusions.

(d) Is not receiving, with respect to any month for which he would receive a payment under this act, compensation under the Workmen's Compensation Act of the state of Montana, as provided by chapter 155, Laws of 1959, which will equal the sum of *one hundred twenty-five dollars ($125.00)* hereunder. If he is receiving payments under the Workmen's Compensation Act, as provided by chapter 155, Laws of 1959, which is less in the aggregate than *one hundred twenty-five dollars ($125.00),* then he is entitled to a payment under this act of the difference between the amount received under the Workmen's Compensation Act, as provided by chapter 155, Laws of 1959, and *one hundred twenty-five dollars ($125.00)* per month." Workmen's compensation limitations.

Section 2. That Section 71-1004, Revised Codes of Montana, 1947, as last amended by chapter 267, Montana Session Laws, 1965, be and the same is hereby amended to read as follows: Amending clause.

HeinOnline -- 1967 vol. I 223 1967

Amounts of payments.

"71-1004. **Amounts of payments.** Subject to the provisions of this act and the deductions herein provided, any person who has silicosis, as defined in this chapter, and who has, subject to the regulations and standards of the industrial accident board; been determined by the industrial accident board to be entitled to a payment under this chapter for silicosis, shall be granted a payment by the said industrial accident board of *one hundred twenty-five dollars ($125.00)* per month subject to such appropriations as may from time to time be made. The legislature shall authorize such additional appropriations as may be necessary to make the increased monthly payments provided herein."

Amending clause.

Section 3. That section 71-1008, Revised Codes of Montana, 1947, as last amended by chapter 267, Montana Session Laws, 1965, be and the same is hereby amended to read as follows:

Conformity with federal acts.

"71-1008. **Conformity with acts of federal government.** If and when the government of the United States makes grants to states in aid of and allowing payments to persons having silicosis, as herein defined, the industrial accident board of the state of Montana is hereby authorized to administer in the state of Montana such grants-in-aid and payments in addition to grants made by this act. The total payments to any individual under this act shall not exceed *one hundred twenty-five dollars ($125.00)* per month exclusive of any grants made by Congress."

Repealing clause.

Section 4. All acts and parts of acts in conflict herewith are hereby repealed.

Approved: February 23, 1967.

CHAPTER 126

An Act Amending Section 11-1104, R.C.M. 1947, Providing That Fifteen Percent (15%) of the Legal Voters of Any City or Town May Propose Ordinances by Petition; Providing for Passage of Said Petition by City Council and Submission of the Ordinance to People; and Repealing All Acts and Parts of Acts in Conflict Herewith.

HeinOnline -- 1967 vol. I 224 1967

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 11-1104, R.C.M. 1947, is amended to read as follows: Amending clause.

"11-1104. **Initiative in cities—petition.** Initiative in cities.

(1) Ordinances may be proposed by the legal voters of any city or town in this state, in the manner provided in this act. *Fifteen* percent *(15%)* of the legal voters of any city or town may propose to the city or town council an ordinance on the subject within the legislative jurisdiction and powers of such city or town council, or an ordinance amending or repealing any prior ordinance or ordinances. Such petition shall be filed with the city or town clerk. It shall be the duty of the city or town clerk to present the same to the council at its first meeting next following the filing of the petition. The council may, within sixty *(60)* days after the presentation of the petition to the council, pass an ordinance similar to that proposed in the petition, either in exact terms or with such changes, amendments, or modifications as the council may decide upon. If the ordinance proposed by the petition be passed without change, it shall not be submitted to the people, unless a petition for referendum demanding such submission shall be filed under the provisions of this act.

15% of legal voters.

Petition—filing.

Passage of ordinance.

(2) If the council shall have made any change in the proposed ordinance, a suit may *be* brought in the district court in and for the county in which the city or town is situated, to determine whether or not the change is material. Such suit may be brought in the name of any one or more of the petitioners. The city shall be made the party defendant. Any elector of the city or town may appear in such suit in person or by counsel on the hearing thereof, but the court shall have the power to limit the number of counsel who shall be heard on either side, and the time to be allowed for argument. It shall only be necessary to state in the complaint that a petition for an ordinance was filed in pursuance of this act; that the city council passed an ordinance on the subject different from that proposed in the petition; and that the plaintiff desires a construction of the ordinance so passed to determine whether or not it differ materially from that proposed. The petition and the ordinance proposed thereby, and the ordinance actually passed, may be set out in the complaint, or copies thereof annexed to the complaint. The names to the peti-

Legal action to determine whether change is material.

HeinOnline -- 1967 vol. I 225 1967

Priority of case.

tion need not be set out. Such cases shall be advanced and brought to hearing as speedily as possible, and have precedence over other cases, except criminal and taxation cases.

Jurisdiction of court.

(3) The court shall have jurisdiction in such cases to determine whether or not the change made by the city council is material, and also whether the petition was regular in form or substance, and shall also have power to decide, if the fact be put in issue by the defendant, whether or not the petition was signed by a sufficient number of voters and was regular in form. If the court shall decide that the change was material and that the petition was regular in form and signed by a sufficient number of legal voters, then the ordinance proposed by the petition shall be submitted to the people as provided in this act. If the court shall decide that the ordinance passed by the council was not materially different from that proposed in the petition, or the petition was not regular in form, or not signed by a sufficient number of legal voters, the ordinance shall not be submitted to the people. If the court shall decide that the changes made by the council were material, but that the petition was irregular for some reason, or not properly or sufficiently signed, a new petition, regular in form, may be presented by the required number of legal voters, asking the council to submit such ordinance to the people, and thereupon the same shall be so submitted as provided in this act.

When ordinance submitted to people.

Irregular petition.

Ordinance not passed within 60 days—submission to people.

(4) If the council shall not, within sixty *(60)* days, pass an ordinance on the subject of the ordinance proposed in the petition, then the ordinance proposed by the petition shall be submitted to the people. Before submitting such ordinance to the people, the mayor or city or town council may direct that a suit be brought in the district court in and for the county, in the name of the city or town, to determine whether the petition and ordinance are regular in form, and whether the ordinance so proposed would be valid and constitutional. The complaint shall name as defendants not less than ten *(10)* nor more than twenty *(20)* of the petitioners. In addition to the names of such defendants, in the caption of the complaint, there shall be added the words, 'and all petitioners whose names appear on the petition for an ordinance filed on the ..... day of ....., in the year .....,' stating the date of filing. The summons shall be similarly directed and shall

Legal action.

Complaint—caption.

Summons.

HeinOnline -- 1967 vol. I 226 1967

be served on the defendants named therein, and in addition thereto shall be published at least once, at the expense of the city, in at least one *(1)* newspaper published in the city or town.

Decision final—exception.

(5) In all suits brought under this section the decision of the district court shall be final except in cases where it shall decide that the proposed ordinance would be unconstitutional or invalid as being beyond the powers of the city or town council, and in such excepted cases the petitioners, or any of them, may appeal to the supreme court as in other cases, but shall not be required to give any bond for costs. The decision of the district court holding such ordinance valid or constitutional shall not, however, prevent the question being raised subsequently, if the ordinance shall be passed and go into effect, by anyone affected by the ordinance. No costs shall be allowed to either side in suits or appeals under this section.

Appeal.

Repeal of ordinance—reenactment prohibited.

(6) If an ordinance shall be repealed pursuant to a proposal initiated by the legal voters of a city or town, as in this section provided, the city or town council may not, within a period of two *(2)* years thereafter, reenact such ordinance or any ordinance so similar thereto as not to be materially different therefrom. If during such two *(2)* year period the council shall enact an ordinance similar to the one repealed pursuant to initiative of the voters, a suit may be brought to determine whether such new ordinance be a reenactment without material change of the one so repealed, and the provisions of subsections (2) and (3) hereof shall apply to such suit and determination of the issues arising thereon. Nothing herein contained shall prevent exercise of the initiative herein provided for, at any time, to procure a reenactment of an ordinance repealed pursuant to initiative of the voters.''

Legal action.

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Approved: February 23, 1967.

CHAPTER 127

An Act to Repeal Section 75-410, R.C.M. 1947, Which Authorizes Refunding Part of the Transportation Costs to

HeinOnline -- 1967 vol. I 227 1967

Students of the Montana University System; Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Repealing clause.

Section 1. Section 75-410, R.C.M. 1947, is repealed.

Effective immediately.

Section 2. This act shall become effective upon passage and approval.

Approved: February 23, 1967.

CHAPTER 128

An Act Amending Section 16-1015, R.C.M. 1947, to Give County Commissioners Authority to Levy an Annual Tax of Twenty Mills to Defray Current County Expenses.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 16-1015, R.C.M. 1947, is amended to read as follows:

Taxation.

"16-1015. **Taxation.** The board of county commissioners has jurisdiction and power under such limitations and reservations as are prescribed by law to levy such tax annually on the taxable property of the county, for county purposes as may be necessary to defray the current expenses thereof, including the salaries otherwise unprovided for, not exceeding *twenty (20)* mills, on each dollar of the taxable valuation for any one (1) year to levy such taxes as are required to be levied by special or local statutes."

20-mill limitation.

Approved: February 23, 1967.

CHAPTER 129

An Act Removing the Requirement for a School Diploma and Increasing the Number of Indians Who May Attend Units of the University of Montana Without Payment of Fees; Defining Who May Attend; Amending Section 75-506.1, R.C.M. 1947.

HeinOnline -- 1967 vol. I 228 1967

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 75-506.1, R.C.M. 1947, is amended to read as follows: Amending clause.

"75-506.1. **Indians permitted to attend without payment of fees—selection.** Any person of one-fourth (¼) Indian blood or more who shall have completed the regular course of a four-year accredited high school or federal Indian school in Montana, and shall have shown evidence of studious and industrious habits, shall be entitled, upon the recommendation of the state board of education, to enroll in any of the units of the university of Montana for four (4) years without the payment of fees required of students attending such institutions. The number of such Indians chosen each year shall not exceed *forty-eight (48).* Rules and regulations governing the selection of these pupils shall be formulated by the state board of education and the state superintendent of public instruction is hereby designated as the agent of the board in carrying out this act." Indians permitted to attend without payment of fees —selection. Rules and regulations.

Approved: February 23, 1967.

CHAPTER 130

An Act to Amend Section 51-303, R.C.M. 1947, Enacted as Section 2, Chapter 258, Laws of 1965, Relating to the Definition of "Cost to the Wholesaler" and "Cost to the Retailer" as Set Forth in the Montana Cigarette Sales Act.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 51-303, R.C.M. 1947, is hereby amended to read as follows: Amending clause.

"51-303. **Definitions.** When used in this act, the following words and phrases shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning: Definitions.

(1) 'Person' shall mean and include any individual, firm, association, company, partnership, corporation for profit or nonprofit corporation, joint stock company, club, agency, syndicate, cooperative, municipal corpora- "Person."

HeinOnline -- 1967 vol. I 229 1967

tion or other political subdivision of this state, trust, receiver, trustee, fiduciary and conservator.

"Wholesaler." (2) 'Wholesaler' shall include any person who:

(a) purchases cigarettes directly from the manufacturer; or

(b) purchases cigarettes from any other person who purchases from the manufacturer and who acquires such cigarettes solely for the purpose of bona fide resale to retail dealers; or

(c) services retail outlets by the maintenance of an established place of business for the purchase of cigarettes, including, but not limited to, the maintenance of warehousing facilities for the storage and distribution of cigarettes.

Nothing contained herein shall prevent a person from qualifying in different capacities as both 'wholesaler' and 'retailer' under the applicable provisions of this act.

"Retailer." (3) 'Retailer' shall mean and include any person who operates a store, stand, booth or concession for the purpose of making sales of cigarettes at retail.

"Administrative agency" or "board." (4) 'Administrative agency' or 'board' shall mean the state board of equalization of Montana and, where the meaning of the context so requires, all deputies and employees duly authorized by such board.

"Cigarettes." (5) 'Cigarettes' shall mean any roll for smoking made wholly or in part of tobacco, irrespective of size or shape and whether or not such tobacco is flavored, adulterated or mixed with any other ingredient, the wrapper or cover of which is made of paper or any other substance or material except tobacco.

"Sale." (6) 'Sale' shall mean any transfer for a consideration, exchange, barter, gift, offer for sale and distribution, in any manner, or by any means whatever.

"Sell at wholesale," "Sale at wholesale," and "Wholesale." (7) 'Sell at wholesale,' 'sale at wholesale' and 'wholesale' sales shall mean and include any bona fide transfer of title to cigarettes for a valuable consideration, made in the ordinary course of trade or in the usual conduct of the wholesaler's business, to a retailer for the purpose of resale.

HeinOnline -- 1967 vol. I 230 1967

"Sell at retail," "Sale at retail," and "retail sales."

(8) 'Sell at retail,' 'sale at retail' and 'retail sales' shall mean and include any transfer of title to cigarettes for a valuable consideration, made in the ordinary course of trade or usual conduct of the seller's business, to the purchaser for consumption or use.

"Basic cost of cigarettes."

(9) 'Basic cost of cigarettes' shall mean the invoice cost of cigarettes to the retailer or wholesaler, as the case may be, or the replacement cost of cigarettes to the retailer or wholesaler, as the case may be, in the quantity last purchased, whichever is lower.

"Cost to the wholesaler."

(10) (a) The term 'cost to the wholesaler' shall mean the 'basic cost of cigarettes' to the wholesaler plus the 'cost of doing business by the wholesaler,' as evidenced *by the standards and methods of accounting regularly employed by the said wholesaler in his determination of costs for income tax reporting purposes for the total operation of his establishment and shall include within said costs,* without limitation, labor costs (including salaries of executives and officers), rent, depreciation, selling costs, maintenance of equipment, delivery costs, all types of licenses, business taxes, insurance and advertising. *The cost of doing business by a wholesaler shall also include any rebates, patronage dividends or concessions no matter how defined, and any and all other indirect or overhead costs with respect to the operation of the establishment of the said wholesaler, expressed as a percentage and applied to the 'basic cost of cigarettes.'*

Standards.

Cost of doing business to include.

Presumption of cost of doing business of wholesaler.

(b) In the absence of the filing with the board of proof which the board declares to be satisfactory of a lesser or higher cost of doing business by the wholesaler making the sale, the 'cost of doing business by the wholesaler' shall be presumed to be five per centum (5%) of the 'basic cost of cigarettes' to the wholesaler, plus cartage to the retail outlet, if performed or paid for by the wholesaler, which cartage cost, in the absence of the filing with the board of satisfactory proof of a lesser or higher cost, shall be considered to be three-fourths of one per centum (¾ of 1%) of the 'basic cost of cigarettes' to the wholesaler.

"Cost to the retailer."

(11) (a) The term 'cost to the retailer' shall mean the 'basic cost of cigarettes' to the retailer plus the 'cost of doing business by the retailer' as evidenced by the standards and methods of accounting regularly employed by *the*

HeinOnline -- 1967 vol. I 231 1967

said retailer in his determination of costs for income tax reporting purposes for the total operation of his establishment and shall include within said costs, without limitation, labor *costs,* (including salaries of executives and officers), rent, depreciation, selling costs, maintenance of equipment, delivery costs, all types of licenses, *business* taxes, insurance, and advertising, *including any rebates or concession no matter how defined, and any and all other indirect or overhead costs with respect to the operation of the establishment of the said retailer, expressed as a percentage and applied to the 'basic costs of cigarettes';* provided, *however,* that any retailer who *purchases from the manufacturer or from any other person at or at less than or about the price normally and usually charged for purchases in wholesale quantities* shall, in determining 'cost to the retailer,' pursuant to this subsection, add the 'cost of doing business by the wholesaler,' as *determined* in subparagraph 10 *(b)* of this act, to the 'basic cost of cigarettes' to said retailer, as well as the 'cost of doing business by the retailer.'

Rebates.

Presumption of cost of doing business of retailer.

(b) In the absence of the filing with the board of satisfactory proof of a lesser or higher cost of doing business by the retailer making the sale, the 'cost of doing business by the retailer' shall be presumed to be ten per centum (10%) of the 'basic cost of cigarettes' to the retailer.

Discounts presumed—when.

(c) In the absence of the filing with the board of satisfactory proof of a lesser or higher cost of doing business, the 'cost of doing business by the retailer,' who, in connection with the retailer's purchase, received not only the discounts ordinarily allowed upon purchases by a retailer, but also, in whole or part, the discounts ordinarily allowed upon purchases by a wholesaler, shall be presumed to be ten per centum (10%) of the sum of the 'basic cost of cigarettes' and the 'cost of doing business by the wholesaler.'

"Business day."

(12) 'Business day' shall mean any day other than a Sunday or a legal holiday.''

Approved: February 23, 1967.

CHAPTER 131

An Act to Amend Sections 66-114 and 66-115, R.C.M. 1947, by Deleting Those Portions Thereof Which Pre-

HeinOnline -- 1967 vol. I 232 1967

scribe the Scale of Compensation for Architects on Public Buildings; and Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 66-114, R.C.M. 1947, is amended to read as follows: Amending clause.

"66-114. All architectural plans and specifications for public buildings of the state of Montana, or any agency thereof, or of any county, city, or school district of the state, shall bear the seal and signature of the architect responsible therefor. Plans to bear seal and signature of architect.

All architects shall have an adequate errors and omissions insurance policy when performing any supervisory acts relating to the construction of any public buildings, works or improvements of the state of Montana or any agency thereof, or of any county, city or school district of the state and such insurance shall be in force for three (3) years after the completion of the public buildings, works or improvements." Errors and omissions insurance.

Section 2. Section 66-115, R.C.M. 1947, is amended to read as follows: Amending clause.

"66-115. *Time* **schedule for payments** *to architects.* All compensation payable *to architects for planning or construction of public buildings of the state of Montana, or any agency thereof, or of any county, city or school district in the state* may be distributed and paid in accordance with the following schedule, to wit: Time schedule for payments.

20% upon completion of studies and preliminary drawings

55% upon completion of working drawings and specifications

15% during construction, based on contract payment

10% when construction has been completed and accepted by the owner or the duly authorized agent of such owner.

Section 3. All acts and parts of acts in conflict herewith are hereby repealed. Repealing clause.

Approved: February 23, 1967.

HeinOnline -- 1967 vol. I 233 1967

CHAPTER 132

An Act to Add Additional Requirements for the Renewal of Cosmetology Teachers' Licenses, and Amending Section 66-816, R.C.M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 66-816, R.C.M. 1947, is amended to read as follows:

Duration and renewal of licenses and certificates.

"66-816. **Duration and renewal of licenses and certificates—delinquent renewal fee.** Licenses and certificates shall be issued for no longer than one *(1)* year. All licenses and certificates shall expire on the 31st day of December next succeeding unless renewed for the next year. Licenses and certificates may be renewed by application made prior to the 31st day of December of each year, and the payment of a required renewal fee. Expired licenses and certificates may be renewed under special rules adopted by the board.

Additional requirements for teachers' licenses.

In addition to the foregoing requirements for renewal persons applying for the renewal of teachers' licenses must have fulfilled the following additional requirements:

(a) During every year each active teacher, either full time or part time, must have successfully completed thirty (30) hours professional teacher training at a school approved by the board as a pre-requisite to the renewal of the teacher's license.

(b) Persons holding a teacher's license, but not actively engaged either full time or part time in teaching cosmetology during the preceding year, may renew such license by paying the fee therefor.

(c) Persons holding a teacher's license but not actively engaged in teaching cosmetology either full time or part time for the preceding year or longer and wishing to resume active teaching of cosmetology must successfully complete thirty (30) hours professional teachers' training at a school approved by the board before resuming active teachers' training. Provided, however, that the foregoing provisions shall not prevent the board, under regulations as it may prescribe, from permitting any person holding a teacher's license and not actively engaged either full time or part time in teaching cosmetology from teaching as a substitute for an active teacher.

HeinOnline -- 1967 vol. I 234 1967

A fee of two dollars and fifty cents ($2.50) shall be charged in addition to other fees fixed by law for renewal applications of licenses and certificates made after the 31st day of December of each year, said board shall notify all license holders of expiration date of license not less than thirty (30) days before such expiration date, and call attention to penalty imposed for failure to renew license by date of expiration." Delinquent renewal fee.

Approved: February 23, 1967.

CHAPTER 133

An Act to Increase Compensation of Members of the Montana State Examining Board of Cosmetology From Ten Dollars ($10) Per Day for Attendance at Board Meetings to Twenty Dollars ($20) Per Day, Amending Section 66-809, R.C.M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 66-809, R.C.M. 1947, is amended to read as follows: Amending clause.

"66-809. **Compensation of members of board—deposit of receipts in state treasury.** Each member of the board shall receive, as compensation for his or her services, the sum of *twenty dollars ($20)* for each day's actual attendance at board meetings, not to exceed three *(3)* consecutive days, and each member shall be reimbursed for his or her expenses necessarily incurred in the performance of his or her duties hereunder. All receipts of the board shall be deposited in the state treasury to the credit of the earmarked revenue fund for the use of the state examining board of cosmetology. The secretary of the state board shall receive an annual salary to be fixed by the board, and his or her necessary expenses actually incurred in the performance of official duties. Such secretary shall not receive, in addition to the salary herein provided, the per diem herein provided for attendance of board meetings. The state board may make reasonable provisions, for its expenses in the enforcement of this act, and for compensation and expenses of examiners." Compensation of board members. Receipts of board. Compensation of secretary.

Approved: February 23, 1967.

HeinOnline -- 1967 vol. I 235 1967

CHAPTER 134

An Act Providing for the Commitment of a Child Held on a Charge Under Which the Child Could Be Adjudged a Delinquent to a Reception and Evaluation Center for Children for Diagnostic Study Prior to Hearing and Judgment; Amending Section 10-611 Relating to Hearing and Judgment in Juvenile Cases.

Be it enacted by the Legislative Assembly of the State of Montana:

Commitment of child to reception and evaluation center.

Section 1. The district courts of this state having jurisdiction over juvenile offenses may commit a child held under its jurisdiction on a charge under which the child could be adjudged a delinquent to a reception and evaluation center for children as established by law. Such commitment shall be in sole discretion of the district judge and shall be for a period not to exceed forty-five (45) days.

Amending clause.

Section 2. Section 10-611, R.C.M. 1947, is hereby amended to read as follows:

Hearings.

"10-611. The court may conduct the hearing in an informal manner and may adjourn the hearing from time to time. In the hearing of any juvenile case, as distinguished from a case involving a child charged with the commission of or attempt to commit any of the criminal offenses set out in subdivision (2) (b) of section 10-602, the general public shall be excluded and only such persons admitted as have a direct interest in the case; provided, however, that whenever the hearing in the juvenile court is had on a written petition charging the commission of any felony, persons having a legitimate interest in the proceeding, including responsible representatives of public information media, shall not be excluded from such hearing. All cases involving children shall be heard separately and apart from the trial of cases against adults.

Exclusion of public—exception.

If child found to be delinquent.

If the court shall find that the child is delinquent within the provisions of this act, it may by order duly entered proceed as follows:

(1) Place the child on probation or under supervision upon such terms as the court shall determine.

(2) Commit the child to a suitable public institution or agency, *except youth forest camps; or commit the child to*

HeinOnline -- 1967 vol. I 236 1967

the department of institutions or to a suitable private institution or agency incorporated under the laws of the state, approved by the state department of public welfare, and authorized to care for children; or to place them in suitable foster homes, approved by the department of public welfare, or the probation department.

(3) Order such further care and treatment as the court may deem best for the best interests of the child, except as herein otherwise provided.

Not penal commitment.

No commitment of any such delinquent child to any institution under this act shall be deemed commitment to a penal institution. No adjudication upon the status of any delinquent child in the jurisdiction of the court shall operate to impose any of the civil disabilities ordinarily imposed by conviction, nor shall any delinquent child be deemed a criminal by reason of such adjudication, nor shall such adjudication be deemed a conviction, nor shall any child be charged with or convicted of any crime in any court except as provided in the preceding section of this act. The disposition of the delinquent child or any evidence given in the court shall not be admissible as evidence against the child in any other case or proceeding.

Summary information to accompany order.

Whenever the court shall commit a delinquent child to any institution or agency, it shall transmit with the order of commitment a summary of its information concerning such child.

Separation of inmates by age.

Whenever a child or an adult under the age of twenty-one (21) years is convicted of a felony or felonies or attempt to commit a felony or felonies and is sentenced to imprisonment in the state prison, he shall, throughout the term of imprisonment or until such time as he reaches the age of twenty-one (21) years, be kept separate and apart at all times from those inmates who are over the age of twenty-one *(21)* years."

Approved: February 23, 1967.

CHAPTER 135

An Act Making it Unlawful for Any Person to Obtain, With Intent to Defraud, Food, Lodging or Other Similar Accommodations; Enumerating Circumstances

HeinOnline -- 1967 vol. I 237 1967

Which Constitute Prima Facie Evidence of Intent to Defraud; and Repealing Section 94-3550, R.C.M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Unlawful to obtain, with intent to defraud, food or lodging.

Section 1. (1) Any person who, with intent to defraud, obtains food, lodging or other accommodations at any hotel, apartment house, inn, rooming or boarding house, tourists' campground, mobile home park, motel, hospital, restaurant or cafe, or who, after having obtained such food, lodging or other accommodations at any such place, surreptitiously removes his baggage and clothing from the place, without first paying or tendering payment for the food, lodging or other accommodations, is guilty of a misdemeanor, and, upon conviction thereof, shall be punished by imprisonment not exceeding three (3) months or by a fine not exceeding one hundred dollars ($100), or both.

Violation—penalty.

Prima facie evidence of fraudulent intent.

(2) Proof of any of the following facts is prima facie evidence of the fraudulent intent referred to in subsection (1) of this act:

(a) Lodging, food or other accommodations were obtained by false pretense or by false or fictitious show or pretense of any baggage or other property.

(b) The person failed or refused to pay for the food, lodging or other accommodations upon demand.

(c) The person made, drew and gave in payment for the food, lodging or other accommodations any check or draft on which payment was refused.

(d) The person departed without paying or offering to pay for the food, lodging or other accommodations.

(e) The person surreptitiously removed or attempted to remove his baggage.

Repealing clause.

Section 2. Section 94-3550, R.C.M. 1947, is repealed.

Approved: February 23, 1967.

CHAPTER 136

An Act Relating to Cities and Towns; Providing for the Acquisition of Off-Street Parking Sites in Cities and

HeinOnline -- 1967 vol. I 238 1967

Towns; Providing for Improvement of Such Off-Street Parking Sites; Providing for the Issuance of Improvement Bonds; Providing for the Formation of Public Improvement District to Provide Off-Street Parking Facilities; Providing for the Leasing of Land for Such Off-Street Parking Sites; Providing for Improving Such Off-Street Parking Sites; Providing for the Payment of Cost Thereof by Annual Assessment of Property in the District; Amending Sections 11-2201 and 11-2214, R.C.M. 1947; Repeal of Conflicting Acts.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That section 11-2201, R.C.M. 1947, be and the same is hereby amended to read as follows: Amending clause.

"11-2201. **Special improvements—powers of city council.** All streets, alleys, places, or courts in the municipalities of this state, now open or dedicated, or which may hereafter be opened or dedicated to public use, shall be deemed and held to be open public streets, alleys, places, or courts, for the purposes of this chapter, and the city council of each municipality is hereby empowered to establish and change the grades of said streets, alleys, places, or courts, and fix the width thereof, and is hereby invested with jurisdiction to acquire private property for right-of-way, and to order to be done any of the work mentioned in this chapter under the proceedings hereinafter described. Special improvements—powers of city council.

Further, that in addition to the powers heretofore granted, when the public interest or convenience requires, the governing body of a municipality may: Additional powers of municipality.

(1) Establish pedestrian malls.

(2) Prohibit, in whole or in part, vehicular traffic on a pedestrian mall.

(3) Pay, from general funds of the municipality or other available monies or from the proceeds of assessments levied on lands benefited by the establishment of a pedestrian mall, the damages, if any, allowed or awarded to any property owner by reason of the establishment of a pedestrian mall, provided that the resolution of intention contains a statement that an assessment will be levied to pay the whole or a stated portion of such damages, if any, allowed or awarded to any property owner by reason of the establishment of such pedestrian mall. Pay property damage.

HeinOnline -- 1967 vol. I 239 1967

Construct pedestrian mall improvements.

(4) Construct on public streets which have been or will be established as a pedestrian mall improvements of any kind or nature necessary or convenient to the operation of such streets as a pedestrian mall, including but not limited to paving, sidewalks, curbs, sewers, covered walkways or areas, air conditioning, drainage works, street lighting facilities, fire protection facilities, flood protection facilities, water distribution facilities, vehicular parking areas, retaining walls, landscaping, tree planting, statuary, fountains, decorative structures, benches, rest rooms, child care facilities, display facilities, information booths, public assembly facilities, and other structures, works or improvements necessary or convenient to serve members of the public using such pedestrian mall including the reconstruction or relocation of existing municipally owned works, improvements or facilities on such streets. Such improvements or structures may be attached to abutting private buildings or structures, provided that such improvements or structures shall be located on public property.

Formation of improvement district.

(a) It is further provided that in addition to the purposes for which an improvement district may be formed, as heretofore set forth, an improvement district may be formed for the sole purpose of the operation, maintenance, repair and improvements of pedestrian malls, off-street parking facilities, and parkings and parkways.

Procedure.

(b) Subject to the powers granted and the limitations contained in this section, the powers and duties of the municipality and the procedure to be followed shall be as provided in this article for other types of special improvement districts.

Resolution of intention to order improvement.

(c) If a petition for the formation of an improvement district under the provisions of this section is presented to the governing body purporting to be signed by all of the real property owners in the proposed district, exclusive of mortgagees and other lien holders, the governing body, after verifying such ownership and making a finding of such fact, shall adopt a resolution of intention to order the improvement pursuant to the provisions of section 11-2204, and shall have immediate jurisdiction to adopt the resolution ordering the improvement pursuant to the following provisions, without the necessity of the publication and posting of the resolution of intention provided for in 11-2204.

HeinOnline -- 1967 vol. I 240 1967

(d) The governing body shall make annual statements and estimates of the expenses of the district, which shall be provided for by the levy and collection of ad valorem taxes upon the assessed value of all the real and personal property in the district, shall publish notice thereof, shall have hearings thereon and adopt them at the times and in the manners provided for incorporated cities and towns by the applicable portions of sections 11-2204 and 11-2206. The governing body, on or before the second Monday in August of each year, shall fix, levy and assess the amount to be raised by ad valorem taxes upon all of the property of the district. All statutes providing for the levy and collection of state and county taxes, including the collection of delinquent taxes and sale of property for nonpayment of taxes shall be applicable to the district taxes provided for under this section.

Annual statements and estimated expenses.

Assessment of taxes.

(e) An improvement district formed for the purposes of establishing a pedestrian mall or off-street parking may be financed in accordance with the provisions of section 11-2214, R.C.M. 1947, and/or in accordance with the methods of financing set forth for the construction of water or sewer systems as set forth in section 11-2218, R.C.M. 1947.

Financing.

Section 2. That section 11-2214.1, R.C.M. 1947, be added to read as follows:

Addition clause.

An improvement district formed for pedestrian malls or off-street parking shall be authorized to issue improvement bonds.

Improvement bonds authorized.

(a) When the governing body determines that improvement bonds be issued, it shall so declare in the resolution of intention for the work and shall specify the rate of interest which they shall bear. A like description of the bonds shall be inserted in all notices of the proceedings required to be published or posted, and a notice that the bonds will be paid from a special fund collected, in not to exceed twenty-five (25) annual installments, from the assessments of twenty-five dollars ($25) or over remaining unpaid thirty (30) days after the date of the warrant, or five (5) days after the decision of the governing body upon an objection. A like description of the bonds shall be included in the warrant.

Declaration of intention to issue bonds—description to include.

(b) All other proceedings for the work up to and including the approval of the assessment by the governing body, and including delivery of the assessment to the con-

Proceedings.

HeinOnline -- 1967 vol. I 241 1967

tractor, demand of payment of the several assessments and the return and record thereof, shall be in all respects as provided in this article.

Addition clause.

Section 3. That section 11-2214.2, R.C.M. 1947, be added to read as follows:

Assessments and bonds for malls or off-street parking—unpaid assessment.

Assessments and bonds for pedestrian malls or off-street parking.

(a) After expiration of the prescribed time from the date of the warrant, and after the treasurer has recorded the return, he shall make and certify to the clerk a complete list of all assessments unpaid, which amount to twenty-five dollars ($25) or over, upon any assessment.

Owner affidavit.

(b) If any person before certification of the list to the clerk presents to the treasurer his affidavit that he is the owner of a lot in the list, accompanied by the certificate of a searcher of records that the person is the owner of record, and notifies the treasurer in writing that he desires no bond to be issued for the assessment upon the lot, then the assessment shall not be included in the list, and shall remain collectible as provided by this article. Omission to file the notice shall bar any defense against the bonds except the defense that the governing body did not have authority to issue the bonds.

Issuance of improvement bonds.

(c) The clerk shall present the list to the governing body at its next meeting, and the body shall thereupon, by resolution, direct improvement bonds to be issued to the contractor for the amount of the assessments remaining unpaid, prescribing the number and denomination of the bonds, and the times when payable, which shall be so fixed that an approximately equal amount of the total sum shall be paid each year until the whole amount is paid, not exceeding twenty-five (25) years and three (3) months from the date of the bonds, but any fractional amounts may be added to the amount due in any year, so that the amounts due in all other years shall be in equal multiples of one

Bond denominations.

hundred dollars ($100) each. Except for a bond to represent any odd amount due in any year, the denominations of the bonds shall be fixed at one hundred dollars ($100) or some multiple thereof, not exceeding one thousand dollars ($1,000). The resolution shall also fix the place, if any,

Bonds and interest payable.

other than the office of the treasurer, at which the bonds and the interest thereon shall be payable.

HeinOnline -- 1967 vol. I 242 1967

(d) The bonds shall be issued as of the date of the warrant, and shall bear interest from such date at the rate specified in the resolution of intention, not exceeding eight percent (8%) per annum. They shall have semiannual interest coupons attached, the first of which shall be payable on January 1 or July 1, as the case may be, occurring ninety (90) days after the date of the bond, and shall be for the interest accrued at that time.

Interest on bonds.

(e) The due date of all bonds shall be January 1 in the years in which they respectively become due.

Due dates.

Section 4. That section 11-2214.3, R.C.M. 1947, be added to read as follows:

Addition clause.

Certification of unpaid assessments; payments by installments; interest; and payments in advance for pedestrian malls and off-street parking.

(a) The treasurer at the time he certifies the list of assessments unpaid to the clerk, shall write the word "certified" on the record of the assessment opposite each assessment included in the list, and thereupon all assessments of twenty-five dollars ($25) or over shall cease to be payable in cash and shall thereafter be payable only in equal annual installments on December 1, in each year preceding January 1, on which the bonds become due. The governing body may provide a plan whereby the annual installment may be collected in partial payments prior to the time the installment is due, and the lien of each assessment on the property assessed shall continue and remain in full force and effect for two (2) years after the last installment on the assessment becomes due, or until the assessment is fully paid.

Certification of unpaid assessments.

Partial payments.

(b) An uncollected installment shall be added to the succeeding installment and, together with interest and penalties, shall be payable therewith.

Penalty and interest.

(c) The number of installments in which the assessment is payable shall correspond to the number of years in which there are bonds to be paid, but the total number of installments shall not exceed twenty-five (25).

Payments by installments.

(d) All assessments of twenty-five dollars ($25) or more not paid before the certification of assessments unpaid to the clerk shall bear interest from the date of the warrant at the same rate as that specified for the bonds in the resolution of intention. The interest shall be payable on June

Interest.

HeinOnline -- 1967 vol. I 243 1967

1, and December 1, of each year, immediately before the interest becomes due on the bonds, but the governing body may provide a plan whereby the interest may be collected in partial payments prior to the date it becomes due.

Payments in advance.

(e) The governing body may provide for receiving payment of the installments of the assessment before they become due, and using the proceeds thereof in redeeming such bonds as may be presented for redemption by the owners thereof, or for investing the proceeds in improvement bonds for other work or other satisfactory investment, but no investment of such funds shall be made so as to prejudice the prompt payment of the bonds on the date they become due.

Addition clause.

Section 5. That section 11-2214.4, R.C.M. 1947, be added to read as follows:

Improvement districts for providing off-street parking facilities; providing for the leasing of real property therefor, and for the improvement thereof.

Improvement districts for off-street parking.

(a) In addition to the purposes which an improvement district may be formed under the provisions of 11-2201, an improvement district may be formed for the sole purpose of leasing real property to be used as off-street parking sites, for the improvement of such off-street parking sites by grading, paving, ordering the installation of lighting poles, wires, conduits, lamps, standards and other appliances for the purpose of lighting and beautifying the off-street parking areas and entrances thereto, and for the operation and maintenance thereof.

Powers and duties of municipality

(b) Subject to the powers granted and the limitations contained in this section, and in 11-2201, the powers and duties of the governing body of the municipality and the procedure to be followed shall be as provided in this article for other types of special improvement districts.

Leasing of real property.

(c) After the formation of a special improvement district, pursuant to the provisions of 11-2204, and as modified in 11-2214.5, and after having acquired jurisdiction to order the improvement pursuant to 11-2207, the governing body may, in addition to ordering the improvement set forth in subsection (a) of this section, enter into lease agreements for property within the limits of the assessment district for use as off-street parking sites, which lease agreements shall be upon such terms and conditions as the gov-

HeinOnline -- 1967 vol. I 244 1967

erning body may determine, and which lease agreements may provide that same may be terminated by either party upon six (6) months' prior written notice, and may contract for the operation and maintenance thereof. The governing body may enter into such lease agreements and contract for the operation and maintenance of such off-street parking sites without the publication of notice and invitation for bids.

Statements and estimates of expenses.

(d) The governing body shall make annual statements and estimates of the expenses of the district, which shall be provided for by the levy and collection of ad valorem taxes upon the assessed value of all the real and personal property in the district, shall publish notice thereof, shall have hearings thereon and adopt at the times and in the manners provided for incorporated cities and towns by the applicable portions of section 11-2214. The governing body, on or before the second Monday in August of each year, shall fix, levy and assess the amount to be raised by ad valorem taxes upon all of the property of the district. All statutes providing for the levy and collection of state and county taxes, including the collection of delinquent taxes and sale of property for nonpayment of taxes, are applicable to the district taxes provided for under this section.

Assessment date.

Assessment limitation.

(e) An improvement district formed under provisions of this section shall not be authorized to issue improvement bonds, and no assessment for district purposes against the property within such district shall exceed twelve (12) mills upon each dollar of taxable valuation thereof in any tax year.

Authorization of improvement districts.

(f) No improvement district formed under provisions of this section shall be authorized to engage in any activity other than the leasing of off-street parking sites and the improvement, operation and maintenance of same. If the municipality is willing to participate in the cost of leasing, improving, operating or maintaining the off-street parking sites in such mprovement districts, the governing body may, by resolution, summarily order such participation and the amount of any such participation shall not be subject to the limitations of section 11-2202.

Other districts.

(g) The formation of an improvement district for off-street parking purposes under the provisions of this sec-

HeinOnline -- 1967 vol. I 245 1967

tion shall not prevent the subsequent establishment of improvement districts for any other purpose authorized by law.

Formation of new districts.

(h) If in the opinion of the governing body, any portion of the territory of a district formed under this section is no longer benefited by the off-street parking sites provided, the governing body may, by resolution, summarily delete from the district formed under this section any such area, and may form a new district from the balance of the original district formed under this section.

Addition clause.

Section 6. That section 11-2214.5, R.C.M. 1947, be added to read as follows:

Special provisions.

Special provisions relating to improvement districts for off-street parking purposes.

Petition for formation of improvement district—resolution.

(a) If a petition for the formation of an improvement district for the leasing, improvement or operation and maintenance of an off-street parking site is presented to the governing body purporting to be signed by all of the real property owners in the proposed district, exclusive of mortgagees and other lien holders, the governing body, after verifying such ownership and making a finding of such fact, shall adopt a resolution of intention to order the improvement pursuant to the provisions of 11-2204, and shall have immediate jurisdiction to adopt the resolution ordering the improvement pursuant to provisions of 11-2207, without the necessity of the publication and posting of the resolution of intention provided for in 11-2204.

Resolution of intention.

(b) If a petition for the formation of an improvement district for off-street parking purposes, and for the leasing of sites and improvement, operation and maintenance thereof is presented to the governing body, signed by the owners of a majority of the frontage of the property proposed to be contained within the limits of the assessment district, the governing body shall adopt a resolution of intention ordering the proposed improvement and cause same to be published and posted pursuant to the provisions of 11-2204.

Repealing clause.

Section 7. All acts and parts of acts in conflict herewith are hereby repealed.

Approved: February 23, 1967.

HeinOnline -- 1967 vol. I 246 1967

CHAPTER 137

An Act Declaring it Unlawful to Transport on the Highways of This State More Than Ten (10) Coniferous Trees, Unless the Transporter Has a Bill of Sale in His Possession Showing His Title for the Trees and Providing a Penalty for Violation of This Act.

Be it enacted by the Legislative Assembly of the State of Montana:

Unlawful to transport more than ten coniferous trees without bill of sale.

Section 1. (1) It shall be unlawful and constitute a misdemeanor for any person to transport on the highways of this state, more than ten (10) coniferous trees without having in his possession a bill of sale showing his title for the trees. The bill of sale shall specify:

Bill of sale to specify.

(a) the date of its execution;

(b) the name and address of the vendor or donor of the trees;

(c) the name and address of the vendee or donee of the trees;

(d) the number of trees, by species, sold or transferred by the bill of sale; and

(e) the shipping yards or the property from which the trees were taken.

Exclusions.

(2) The foregoing provisions do not apply to:

(a) the transportation of trees with their roots intact;

(b) the transportation of logs, poles, pilings or other forest products from which substantially all the limbs and branches have been removed;

(c) the transportation of coniferous trees by the owner of the land from which they were taken or his agents;

(d) the transportation of coniferous trees by a common carrier.

Approved: February 23, 1967.

CHAPTER 138

An Act to Amend the Architectural Practice Act; Amending Section 66-108, R.C.M. 1947, by Increasing the Fees

HeinOnline -- 1967 vol. I 247 1967

Payable by Applicants for Examination; Amending Section 66-109, R.C.M. 1947, by Increasing the Per Diem Compensation Paid to Members of the Board of Architectural Examiners; Amending Section 66-110, R.C.M. 1947, by Increasing the Amount of the Annual License Fee Paid by Architects; Amending Section 66-112, R.C.M. 1947, by Specifying Certain Acts Shall Constitute Unprofessional Conduct and Be Cause for Revocation of Certificate to Practice; Repealing Section 66-104, R.C.M. 1947; Providing a Severability Clause; and Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 66-108, R.C.M. 1947, is amended to read as follows:

Examination application fees.

66-108. **Fees payable by applicants for examination—disposition of fees.** Applicants for examination shall pay in advance to the secretary of said board a fee of *twenty-five* dollars *($25), which fee shall defray the entire expense of such candidate, before the aforesaid board of architectural examiners.* Any applicant failing to pass the said examination shall be entitled to a second examination within one *(1)* year *upon payment of five dollars ($5) for each section of said examination.*

Disposition of fees.

The money received from said applicant shall be turned over to the state treasurer of the state of Montana, and shall be deposited by him in the earmarked revenue fund for the use of the board of architectural examiners."

Amending clause.

Section 2. That section 66-109, R.C.M. 1947, is amended to read as follows:

Compensation of board members.

"66-109. **Compensation of members of board—disposition and use of funds—annual report.** Each member of the examining board is hereby allowed the sum of *twenty* dollars *($20)* per day and mileage at the rate of ten cents (10¢) per mile while in the discharge of his actual duties.

Disposition of funds.

And all fees and moneys received for licenses from practicing architects shall be deposited with the state treasurer to the credit of the earmarked revenue fund for the use of the board of architectural examiners.

Annual report.

The members of the said board shall report annually to the governor on the first Monday of January of each

HeinOnline -- 1967 vol. I 248 1967

year, which report must show all the transactions of the board, giving the number and names of all applicants, and the number and names of those rejected, and those to whom certificates have been issued, the expenses, the fees and mileage paid, and the amount of money received."

Section 3. That section 66-110, R.C.M. 1947, is amended to read as follows: Amending clause.

"66-110. **Annual fee of licensed architects.** Every licensed architect in the state who desires to continue the practice of his profession shall annually, during the time he or she shall continue in such practice, pay to the treasurer of the state of Montana, during the month of July, a fee of *twenty* dollars *($20).*" Annual fees of licensed architects.

Section 4. That section 66-112, R.C.M. 1947, is amended to read as follows: Amending clause.

"66-112. **Revocation of license.** The board of architectural examiners may revoke any certificate in the manner hereinafter provided if proof satisfactory to the board be presented in the following cases: Revocation of license.

(a) In case it is shown that the certificate was obtained through fraud or misrepresentation;

(b) In case the holder of the certificate has been found guilty by said board or by a court of justice of any fraud or deceit in his professional practice or has been convicted of a felony by a court of justice;

(c) In case the holder of the certificate has been found guilty by said board of gross incompetency or of recklessness in the planning or construction of buildings;

(d) In case the holder of the certificate has been found guilty by said board of any of the following acts which are hereby declared to constitute unprofessional conduct: Unprofessional conduct.

(1) Willful departure in any material respect from approved plans or specifications without the consent of the owner or his duly authorized representative,

(2) Willful violation of the building codes of the state or any political subdivision thereof,

(3) Aiding or abetting any unlicensed person to violate or evade the provisions of this act,

(4) Sealing or signing plans or specifications not prepared under his direct supervision and control.

HeinOnline -- 1967 vol. I 249 1967

Proceedings for revocation.

Service of charges.

Board to report findings and conclusions.

The proceedings for revocation of a certificate shall be commenced by filing written charges against the accused with the board of architectural examiners either by the board itself or by any complaint. A copy of the charges together with a notice of the time and place of hearing shall be served on the accused at least thirty *(30)* calendar days in advance of such hearing. Where personal service cannot be made within the state of Montana, service may be made by publication in accordance with such rules as the board may adopt, following generally and in principle the provisions of sections 93-3013, 93-3014, and 93-3015. At the hearing, the accused shall have the right to be represented by counsel, introduce evidence, and examine and cross-examine witnesses. The secretary of the board is hereby empowered to administer oaths. The board shall make a written report of its findings and conclusions, which report, with a transcript of the entire record of the proceedings, shall be filed in the office of the secretary of state, and, if the board's findings and conclusions shall be adverse to the accused, his or her certificate shall stand revoked and annulled at the expiration of thirty *(30)* days from the filing of such report, unless within said period of thirty *(30)* days a writ of review shall be issued as hereinafter provided, in which event said certificate shall not stand suspended until the final determination of the courts upon such writ of review.

Judicial review.

Any party aggrieved by the decision of the said board may seek a review thereof in the district court of the first judicial district of the state of Montana in the manner set forth in sections 93-9001 to 93-9011, and said court shall affirm, reverse, or modify the findings of said board in accordance with law.

Attendance of witnesses and production of books—power of board.

The said board shall have power to require the attendance of persons and the production of books and papers and to require such persons to testify in any and all matters within its jurisdiction. The chairman and the secretary of the board shall have power to issue subpoenas, and upon the failure of any person to attend as a witness when duly subpoenaed or to produce the documents when duly directed by said board, the board shall have power to refer the said matter to the district court of the first judicial district of the state of Montana, which may order the attendance of such witness or the production of such books and papers or require the said witness

HeinOnline -- 1967 vol. I 250 1967

to testify, as the case may be; and upon the failure of the witness to attend, to testify, or to produce such books or papers, as the case may be, such witness may be punished for contempt of court as for failure to obey a subpoena issued or to testify in a case pending before said court."

Repealing clause.

Section 5. That section 66-104, R.C.M. 1947, is hereby repealed.

Severability clause.

Section 6. If any section, subdivision, sentence or word of this act shall be determined by a court of competent jurisdiction to be unconstitutional or inoperative, such determination shall not affect the remaining portions of this act.

Repealing clause.

Section 7. All acts and parts of acts in conflict herewith are hereby repealed.

Approved: February 23, 1967.

CHAPTER 139

An Act Amending Sections 23-526 and 23-530, R.C.M. 1947, to Conform to Changes Made in Requirements for Registration in School Elections.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 23-526, R.C.M. 1947, is amended to read as follows:

Name of voter must appear in copy of register.

"23-526. **Name of voter must appear in copy of register —identification of voter.** No person shall be entitled to vote at any election mentioned in this act unless his name shall, on the day of election, appear in the copy of the official precinct register furnished by the county clerk to the judges of election, and the fact that his name so appears in the copy of the precinct register shall be prima facie evidence of his right to vote; provided, that when the judges shall have good reason to believe, or when they shall be informed by a qualified elector that the person offering to vote is not the person who was so registered in that name, the vote of such person shall not be received until he shall have proved his identity as the person who was registered in that name by the oath

Identification of voter.

HeinOnline -- 1967 vol. I 251 1967

of two reputable freeholders within the precinct in which such elector is registered."

Amending clause.

Section 2. Section 23-530, R.C.M. 1947, is amended to read as follows:

"Election."

"23-530. **'Election' defined.** The word 'election,' as used in this law, where not otherwise qualified, shall be taken to apply to general, special, primary nominating, and municipal elections, and to elections in school districts."

Approved: February 23, 1967.

CHAPTER 140

An Act Providing Qualified Voters in an Extra Levy School Election to be Registered; Amending Section 75-3801, R.C.M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 75-3801, R.C.M. 1947, is amended to read as follows:

District school taxes.

"75-3801. **District school taxes—election.** (1) Whenever the board of trustees of any school district shall deem it necessary to raise money by taxation in excess of the levy required to meet its maximum budgets as specified in section 75-1713.1, for the purpose of maintaining the schools of said district, or building, altering, repairing or enlarging any schoolhouse or houses of such district, for furnishing additional school facilities for said district, or for any other purpose necessary for the proper operation and maintenance of the schools of said district, said board of trustees shall determine and fix the amount necessary and required for such purpose or purposes in addition to the maximum budgets hereinbefore provided for, and it shall submit the question of an additional levy to raise said excess amount to the qualified *registered* electors residing within the district who are taxpayers and whose names appear upon the last completed assessment roll of the county for state, county and school taxes, either at the regular annual election held in said district, or at a special election called for that purpose by the board of trustees of said district. Such

Election on additional levy.

HeinOnline -- 1967 vol. I 252 1967

election shall be called by resolution in the same manner as provided for other school elections, and shall be held prior to August first.

Additional high school money.

(2) Whenever the board of trustees of any district or county high school shall deem it necessary to raise money by taxation in excess of the levy required to meet its maximum budgets as specified in section 75-4518.1 for the purpose of maintaining the high schools of said district or the county high school, or building, altering, repairing or enlarging any schoolhouse or houses of such district or county high school, for furnishing additional school facilities for said district, or county high school, or for any other purpose necessary for the proper operation and maintenance of the schools of said district, or county high school, said board of trustees shall determine and fix the amount necessary and required for such purpose or purposes in addition to any other legal levies on the district, including the approved addition to its foundation program hereinbefore provided for, and in the case of the district high school it shall submit the question of an additional levy to raise said amount to the qualified *registered* electors residing within the district who are taxpayers and whose names appear upon the last completed assessment roll of the county for state, county and school taxes, either at the regular annual election held in said district or at a special election called for that purpose by the board of trustees of said district. In the case of the county high school the board shall submit the question of an additional levy to raise said amount to the qualified *registered* electors residing within the county, exclusive of those residing within any district maintaining a district high school in the county, who are taxpayers and whose names appear upon the last completed assessment roll in the county for state, county and school taxes, either at the regular annual elections held in said districts, or special elections called for that purpose by the board of trustees of said county high school. Such election shall be called by resolution in the same manner as provided for other school elections, and shall be held prior to August first; and provided, further, that the provisions of this act shall not prevent the voting of a special levy on a high school district as provided for in chapter 130, Laws of 1949 (75-4609)."

Election on additional levy.

Election.

Approved: February 23, 1967.

HeinOnline -- 1967 vol. I 253 1967

CHAPTER 141

An Act to Provide that a Public Contractor Who is Working Over the Contract Time on a Previously Awarded Contract from the State of Montana, or any Board, Commission or Department Thereof, or from any Board of County Commissioners, or from any City or Town Council, or Agency Thereof, May Not Submit Any Additional Bids or Proposals to Any of the Above Mentioned Agencies Until He Has Completely Executed the Present Contract Upon Which He is Working Beyond Contract Time; Amending Section 84-3507, R.C.M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Public contractor working beyond contract time shall not submit additional bids or enter into additional contracts

Section 1. A public contractor, as defined in section 84-3501, R.C.M. 1947, who has been awarded a contract by the state of Montana, or any board, commission or department thereof, or by any board of county commissioners, or by any city or town council, or agency thereof, for the construction or reconstruction of a public work, and is working beyond the contract time (including any authorized time extensions) shall not submit any additional bids or proposals, nor enter into any additional contract with any public agency of the state of Montana, county, or city thereof, until he has completely executed the contract upon which he is working beyond contract time, and all supplemental agreements thereto.

Working beyond contract time—when.

Section 2. A public contractor shall not be considered to be working beyond contract time if the delay is caused by an accident or casualty produced by physical cause which is not preventable by human foresight, i.e., any of the misadventures termed an "Act of God."

Amending clause.

Section 3. Section 84-3507, R.C.M. 1947, is amended to read as follows:

Bids to show licensing and that bidder not working overtime.

"84-3507. **Bids to show bidder is licensed,** *is not presently working overtime on any incomplete contract,* **and class of bid.** All bids and proposals for the construction of any public contract project subject to the provisions of this act shall contain a statement showing that the bidder or contractor is duly and regularly licensed hereunder *and is not presently working beyond the contract time, including authorized time extensions, on any previously awarded public contract project.* The number and class

HeinOnline -- 1967 vol. I 254 1967

of such license then held by such public contractor shall appear upon such bid or proposal, and no contract shall be awarded to any contractor unless he is the holder of a license in the class within which the value of the project shall fall as hereinbefore provided, *and unless the public contractor has completely executed any previous contract upon which he has worked beyond contract time.*"

Approved: February 23, 1967.

CHAPTER 142

An Act Providing for Meeting Dates of the Montana Trade Commission; Providing for the Giving of Notice of Violation of the Unfair Practices Act; Providing for the Showing of Probable Cause, and of Investigation and Report by Said Commission; Amending Section 51-113, R.C.M. 1947, Enacted as Section 12, Chapter 80, Laws 1937, as Amended by Section 1, Chapter 50, Laws 1939.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 51-113, R.C.M. 1947, enacted as section 12, chapter 80, Laws 1937, as amended by section 1, chapter 50, Laws 1939, is amended to read as follows: Amending clause.

"51-113. **Montana trade commission — administration of act by — intervention — orders — review — appeals — process — finality of order.** Montana trade commission.

(1) The Montana trade commission shall have the administration of this act; and the members thereof shall not receive any additional compensation for their services other than their salaries prescribed by law. *The commission shall meet not less than six (6) times a year on or about the fifteenth (15th) day of the month, and as often and wherever it may decide other meetings are necessary. Suitable notice of all meetings shall be given as the commission may determine.* Administration of act.

Said commission is empowered and directed to prevent any person, firm or corporation from violating any of the provisions of this chapter.

(2) *Upon receiving notice from any person that any person, firm or corporation is violating or has violated any* Investigation upon cause shown.

HeinOnline -- 1967 vol. I 255 1967

of the provisions of this chapter, the commission shall immediately notify the person giving such notice either to appear at its next regular or special meeting or to make a written reply to show probable cause of such violation. If probable cause is shown, the commission must thereafter make its own investigation and within sixty (60) days of the finding of probable cause must make a written report of its investigation and must mail a copy of its findings to the person initially giving notice of a violation.

Complaint.

If, after such investigation the commission shall have reason to believe that any such person, firm or corporation has been or is engaging in any course of conduct or doing any act or acts in violation of the provisions of this chapter and if it shall appear to the commission that a proceeding by it in respect thereof would be to the in-

Service.

terest of the public, it shall issue and serve upon such person, firm or corporation a complaint stating its charges in that respect, and containing a notice of a hearing upon a day and at a place therein fixed not less than five (5) days after the service of said complaint. Any such complaint may be amended by the commission in its discretion at any time five *(5)* days prior to the issuance of an order

Hearing.

based thereon. The person, firm or corporation so complained of shall have the right to appear at the place and time so fixed and show cause why an order should not be entered by the commission requiring such person, firm or corporation to cease and desist from the violation of the

Intervention.

law so charged in said complaint. Any person, firm or corporation may make application, and upon good cause shown may be allowed by the commission to intervene and appear in said proceeding by counsel or in person. The testimony in any such proceeding shall be reduced to writing and filed in the office of the commission. If upon such hearing the commission shall be of the opinion that the act or conduct in question is prohibited by this

Report of findings.

chapter, it shall make a report in writing in which it shall state its findings as to the facts and shall issue and cause to be served on such person, firm or corporation an order requiring such person, firm or corporation to cease and

Transcript—modification of order.

desist from such acts or conduct. Until a transcript of the record in such hearing shall have been filed in a district court, as hereinafter provided, the commission may at any time, upon such notice and in such manner as it shall deem proper, modify or set aside, in whole or in part, any report or any order made or issued by it under this section.

HeinOnline -- 1967 vol. I 256 1967

(3) Any person, firm or corporation required by an order of the commission to cease and desist from any such act or conduct may obtain a review of such order in any district court of the state of Montana within any district where the act or conduct in question was done or carried on, or where such person, firm or corporation resides or carries on business, by filing in the court, within sixty *(60)* days from the date of the service of such order, a written petition praying that the order of the commission be set aside. A copy of such petition shall be forthwith served upon the commission, and thereupon the commission forthwith shall certify and file in the court a transcript of the entire record in the proceeding, including all the evidence taken and the report and order of the commission. Upon such filing of the petition and transcript the court shall have jurisdiction of the proceeding and of the question determined therein and shall have power to make and enter upon the pleadings, evidence, and proceedings set forth in such transcript a decree affirming, modifying, or setting aside the order of the commission, and enforcing the same to the extent that such order is affirmed, and to issue such writs as are ancillary to its jurisdiction or are necessary in its judgment to prevent injury to the public or to competitors pendente lite. The findings of the commission as to the facts, if supported by sufficient evidence, shall be conclusive.

Judicial review.

Petition.

Jurisdiction of court.

Findings of facts by commission.

(4) To the extent that the order of the commission is affirmed, the court shall thereupon issue its own order commanding obedience to the terms of such order of the commission. If either party shall apply to the court for leave to adduce additional evidence, and shall show to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the proceedings before the commission, the court may order such additional evidence to be taken before the commission and to be adduced upon the hearing in such manner and upon such terms and conditions as to the court may seem proper. The commission may modify its findings as to the facts, or make new findings, by reason of the additional evidence so taken, and it shall file such modified or new findings, which, if supported by sufficient evidence, shall be conclusive, and its recommendation, if any, for the modification or setting aside of its original order, with the return

Order by court.

Additional evidence.

Commission may modify findings.

HeinOnline -- 1967 vol. I 257 1967

Finality of judgment of court—appeal.

of such additional evidence. The judgment and decree of the court shall be final, except that the same shall be subject to review by the supreme court upon appeal as in other cases of judgments of such courts; provided, however, that said appeal shall be taken within thirty *(30)* days from the date of the entry of such judgment or decree.

Priority of proceedings—service.

(5) Such proceedings in the district court shall be given precedence over other civil cases pending therein, and shall be in every way expedited. Complaints, orders, and other processes of the commission under this section may be served by anyone duly authorized by the commission, either

(a) by delivering a copy thereof to the person to be served, or to a member of the partnership to be served, or the president, secretary, or other executive officer or a director of the corporation to be served; or

(b) by leaving a copy thereof at the residence or the principal office or place of business of such person, partnership or corporation; or

(c) by registering and mailing a copy thereof addressed to such person, partnership or corporation at his or its residence or principal office or place of business. The verified return by the person so serving said complaint, order, or other process setting forth the manner of said service shall be proof of the same, and the return post office receipt for said complaint, order, or other process registered and mailed as aforesaid shall be proof of the service of the same.

Order of commission final —when.

(6) An order of the commission to cease and desist shall become final

(1) upon the expiration of the time allowed for filing a petition for review, if no such petition has been duly filed within such time;

(2) upon the expiration of the time allowed for filing a notice of appeal to the supreme court, if the order of the commission has been affirmed, or the petition for review dismissed by the district court and no notice of appeal to the supreme court has been duly filed, or

(3) upon the expiration of thirty *(30)* days from the date of issuance of the remittitur of the supreme court,

HeinOnline -- 1967 vol. I 258 1967

if such court directs that the order of the commission be affirmed or the petition for review dismissed.

Supreme court modification final—when.

(7) If the supreme court directs that the order of the commission be modified or set aside, the order of the commission rendered in accordance with the mandate of the supreme court shall become final upon the expiration of thirty *(30)* days from the time it was rendered, unless within such thirty *(30)* days either party has instituted proceedings to have such order corrected to accord with the mandate, in which event the order of the commission shall become final when so corrected.

District court modification final—when.

(8) If the order of the commission is modified or set aside by the district court and if

(1) the time allowed for filing a notice of appeal to the supreme court has expired and no such notice of appeal has been duly filed or

(2) the decision of the district court has been affirmed by the supreme court, then the order of the commission rendered in accordance with the mandate of the district court shall become final on the expiration of thirty *(30)* days from the time such order of the commission was rendered, unless within such thirty *(30)* days either party has instituted proceedings to have such order corrected so that it will accord with the mandate, in which event the order of the commission shall become final when so corrected.

Rehearing.

(9) If the supreme court orders a rehearing; or if the case is remanded by the district court to the commission for a rehearing, and if

(1) the time for filing a notice of appeal to the supreme court has expired and no such notice of appeal has been duly filed, or

(2) the decision of the court has been affirmed by the supreme court, then the order of the commission rendered upon such rehearing shall become final in the same manner as though no prior order of the commission had been rendered.

Violation of commission order —penalty.

(10) Any person, firm or corporation who violates an order of the commission to cease and desist after it has become final, and while such order is in effect shall forfeit and pay to the state of Montana a penalty of not

HeinOnline -- 1967 vol. I 259 1967

more than one thousand dollars ($1,000) for each violation, which shall accrue to the state of Montana and may be recovered in a civil action brought by the state of Montana.

The remedies and method of enforcement of this chapter provided for in this section shall be deemed concurrent and in addition to the other remedies provided in this chapter.

Approved: February 23, 1967.

CHAPTER 143

An Act to Amend Section 32-3306, R.C.M. 1947, Relating to Additional Gross Loaded Weight Fees on Certain Farm Vehicles; Including Certain Vehicles of Soil Conservation and Land Leveling Contractors Among the Vehicles Subject to the Fees.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 32-3306, R.C.M. 1947, be amended to read as follows:

Additional fees—certain farm vehicles.

"32-3306. **Additional fees—certain farm vehicles.** Except for motor trucks owned and operated by cooperative associations or cooperative marketing associations, there shall be paid and collected annually a fee equal to twenty percent *(20%)* of the fees provided in schedule I and schedule II above on motor trucks, trailers and semitrailers, owned and operated by ranchers or farmers in the transportation of their own ranch, farm, orchard, or dairy products from point of production to market, or of supplies, commodities or equipment to be used on the ranch, farm, orchard, or dairy, or in the infrequent or seasonal transportation by one farmer for another for any purpose other than commercial hire of products of the farm, orchard or dairy, or of supplies or commodities to be used on the farm, orchard or dairy, *and on one truck tractor and lowboy trailer used by contractors engaged exclusively in soil conservation work and land leveling activities that result in direct benefit to agriculture.*

HeinOnline -- 1967 vol. I 260 1967

However, the minimum fee so paid shall be *six* dollars *($6)*. The terms 'trailers and semitrailers' as used herein shall not include farm wagons." Trailers not to include farm wagons.

Approved: February 23, 1967.

CHAPTER 144

An Act to Change the Qualifications for Aldermen; Amending Section 11-714, R.C.M. 1947; and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 11-714, R.C.M. 1947, is amended to read as follows: Amending clause.

"Section 11-714. **Qualifications of aldermen.** No person shall be eligible to the office of alderman unless he shall be a taxpaying freeholder within the limits of a city, and a resident of the ward so electing him, or a resident of an area which has been annexed by the city or town and placed in a ward, for at least *sixty (60) days* preceding such election." Qualification of alderman.

Section 2. This act is effective on its passage and approval. Effective immediately.

Approved: February 24, 1967.

CHAPTER 145

An Act to Provide for Authorized Extraordinary Levies to Service and Pay Bonded Indebtedness of Such Municipalities and to Pay Judgments Obtained Against Them, May be Made by Such Municipalities in Addition to Such All-Purpose Levy, and Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. This section shall be cited as section 84-4701.6: Section 84-4701.6.

HeinOnline -- 1967 vol. I 261 1967

Levies to pay bonded indebtedness of municipalities.

84-4701.6 That otherwise authorized extraordinary levies to service and pay bonded indebtedness of municipalities and to pay judgments against them, may be made by such municipalities in addition to such all-purpose levy provided in sections 84-4701.1, 84-4701.2, 84-4701.3, 84-4701.4 and 84-4701.5 of the Revised Codes of Montana, 1947.

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Approved: February 24, 1967.

CHAPTER 146

An Act to Amend Section 76-103 and 76-107, R.C.M. 1947, to Allow Municipalities to Become a Part of Existing Soil and Water Conservation Districts. Incorporated Municipalities to be Represented on the Board of Supervisors by Two (2) Members Appointed by the Legislative Bodies of Such Incorporated Municipalities.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 76-103, R.C.M. 1947, is amended to read as follows:

Definitions.

"76-103. **Definitions.** Wherever used or referred to in this act, unless a different meaning clearly appears from the context:

"District" or "soil and water conservation district."

(1) "District" or "soil and water conservation district" means a governmental subdivision of this state, and a public body corporate and politic, organized in accordance with the provisions of this act, for the purposes, with the powers, and subject to the restrictions hereinafter set forth;

"Supervisor."

(2) "Supervisor" means one of the members of the governing body of a district, elected or appointed in accordance with the provisions of this act;

"Committee" or "state soil conservation committee."

(3) "Committee" or "state soil conservation committee" means the agency created in section 76-104;

"Petition."

(4) "Petition" means a petition filed under the provisions of subsection A of section 76-105 for the creation of a district;

HeinOnline -- 1967 vol. I 262 1967

(5) "Nominating petition" means a petition filed under the provisions of section 76-106 to nominate candidates for the office of supervisor of a soil conservation district; "Nominating petition."

(6) "State" means the state of Montana; "State."

(7) "Agency of this state" includes the government of this state and any subdivision, agency, or instrumentality, corporate or otherwise, of the government of this state; "Agency of this state."

(8) "United States" or "agencies of the United States" includes the United States of America, the soil conservation service of the United States department of agriculture, and any other agency or instrumentality, corporate or otherwise, of the United States of America; "United States" or "agencies of the United States."

(9) "Government" or "governmental" includes the government of this state, the government of the United States, and any subdivision, agency, or instrumentality, corporate or otherwise of either of them; "Government" or "governmental."

(10) "Land occupier" or "occupier of land" includes any person, firm, corporation, *municipality or other entity* who shall hold title to, or shall be in possession of, any lands lying within a district organized under the provisions of this act, whether as owner, lessee, renter, tenant, or otherwise; "Land occupier" or "occupier of land."

(11) "Due notice" means notice published at least twice, with an interval of at least fourteen *(14)* days between the two publicttion dates, in a newspaper or other publication of general circulation within the proposed area, or by posting at a reasonable number of conspicious places within the appropriate area, such posting to include, where possible, posting at public places where it may be customary to post notices concerning county or municipal affairs generally. At any hearing held pursuant to such notice, at the time and place designated in such notice, adjournment may be made from time to time without the necessity of renewing such notice for such adjourned dates." "Due notice."

Section 2. Section 76-107, R.C.M. 1947, is amended to read as follows: Amending clause.

"76-107. **Appointment, qualifications and tenure of supervisors.** The governing body of the district shall, *if there are no incorporated municipalities within the bound-* Appointment, qualifications and tenure of supervisors.

HeinOnline -- 1967 vol. I 263 1967

aries of said district, consist of five (5) supervisors, elected as provided hereinabove.

In all cases where the boundaries of such soil and water conservation district includes any incorporated municipality or municipalities, said board of supervisors, in addition to said five (5) elected supervisors, shall consist of two (2) appointed supervisors, making a total of seven (7) supervisors in such districts. The two (2) appointed supervisors must be residents of the municipalities within the district. The legislative bodies of the incorporated municipalities within the district shall, after consultation with the elected supervisors, appoint the two (2) additional supervisors. The term of office of the appointed supervisors shall be three (3) years.

Where there are more than two (2) incorporated municipalities within a district then the two (2) appointed supervisors shall represent all the municipalities and urban interests in the district, and no municipality shall have more than one (1) appointed supervisor residing therein.

Chairman of board.

The supervisor shall annually elect a chairman from their members. The term of office of each supervisor shall be three (3) years, except that the supervisors who are first appointed shall be designated to serve for terms of one (1) and two (2) years, respectively, from the date of their appointment. *An elected* supervisor shall hold office until his successor has been elected and has qualified. Any vacancy occurring in the office of *an elected* supervisor shall be filled by appointment by the remaining supervisors until the next regular election, when a successor shall be elected to serve the unexpired term. A majority of the supervisors shall constitute a quorum and the concurrence of a majority in any matter within their duties shall be required for its determination. A supervisor shall receive no compensation for his services, but he shall be entitled to expenses, including traveling expenses, necessarily incurred in the discharge of his duties.

Vacancies.

Quorum.

Officers, qualifications, duties and compensation.

The supervisors may employ a secretary and such other officers, agents, and employees, permanent and temporary, as they may require, and shall determine their qualifications, duties, and compensation.. The supervisors may call upon the attorney general of the state for such legal services as they may require, or may employ their own counsel and legal staff. The supervisors may delegate to

HeinOnline -- 1967 vol. I 264 1967

their chairman, to one or more supervisors, or to one or more agents or employees, such powers and duties as they may deem proper. The supervisor shall furnish to the state soil conservation committee, copies of such ordinances, rules, regulations, orders, contracts, forms, and other documents as they shall adopt or employ, and such other information concerning their activities as may be required in the performance of its duties under this act.

Supervisors to provide records to state committee.

The supervisors shall provide for the execution of surety bonds for all employees and officers who shall be entrusted with funds or property; shall provide for the keeping of a full and accurate record of all proceedings, and of all resolutions, regulations, and orders issued or adopted; and shall provide for an annual audit of the accounts of receipts and disbursements. Any supervisor may be removed by the state soil conservation committee upon notice and hearing, for neglect of duty or malfeasance in office, but for no other reason.

Surety bonds—records—removal of supervisors.

The supervisors may invite the legislative body of any municipality or county located near the territory comprised within the district to designate a representative to advise and consult with the supervisors of the district on all questions of program and policy which may affect the property, water supply, or other interests of such municipality or county."

Consultation with municipal representatives.

Approved: February 24, 1967.

CHAPTER 147

An Act Amending Section 73-201, R.C.M. 1947, to Provide for Constructive Notice of Instruments and Documents Affecting Title to Real Estate Executed or Recorded Before the Signator Thereto Acquires any Interest in the Concerned or Described Premises.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 73-201, R.C.M. 1947, is amended to read as follows:

Amending clause.

"73-201. **Record—to whom notice—recording copies.** Every conveyance of real property acknowledged or proved, and certified and recorded as prescribed by law,

Record.

HeinOnline -- 1967 vol. I 265 1967

Notice.

from the time it is filed with the county clerk for record, is constructive notice of the contents thereof to subsequent purchasers and mortgagees; and a certified copy of any such recorded conveyance may be recorded in any other county, and when so recorded the record thereof shall have the same force and effect as though it was of the original conveyance. *Further, every conveyance and/or encumbrance of real property acknowledged or proved, and certified, and recorded as prescribed by law, and which is executed by one who thereafter acquires an interest in the said real property by a conveyance which said conveyance is constructive notice as aforesaid, is, from the time such latter conveyance is filed with the county clerk for record, constructive notice of the contents of such earlier conveyance and/or encumbrance to subsequent takers, purchasers, mortgagees, or other encumbrances or transferees.*"

After-acquired interest.

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Approved: February 24, 1967.

CHAPTER 148

An Act to Amend Section 28-109, R.C.M. 1947, Relating to the State Board of Forestry; to Provide for the Classification of Additional Lands for Fire Protection Purposes; and to Provide for an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 28-109, R.C.M. 1947, is hereby amended to read as follows:

Duty of owner to furnish fire protection.

"28-109. **Duty of owner of classified forest land.** Every owner of forest land classified as such by the board is hereby required to furnish protection against the starting or existence, and to suppress the spread, of fire on such land during the full period of each forest fire season defined by this act. Such protection and suppression shall be in conformity with reasonable rules and standards for adequate fire protection to be prescribed by the board.

Protection not provided by owner—remedy.

If such owner does not provide for such protection and suppression, said board may provide the same, at a cost to the land owner of not more than ten cents (10c) per acre per year for Class I land and not more than three

HeinOnline -- 1967 vol. I 266 1967

cents (3c) per acre per year for Class II land and in the event thereof, the owner of such land shall pay to the county treasurer of the county in which such land is situated, the charge for the same approved by the board, in accordance with the provisions of this act. No other charges shall be assessed those landowners participating, except in cases of proven negligence on the part of the landowner or his agent.

Negligence of landowner.

The forest land of Montana shall be classified for protection and assessment purposes as follows:

Classification of forest land.

(a) Class I Land. Shall include all forest land primarily suitable for production of timber, forest land primarily suitable for joint use for timber production and the grazing of livestock as a permanent or semipermanent joint use or as a temporary joint use during the interim between logging and reforestation.

Class I.

(b) Class II Land. Shall include all lands primarily suitable for grazing or other agricultural purposes, which are intermingled with or contiguous to the land described in subsection (a), above.

Class II.

(c) Class III Land. Shall include lands primarily suitable for grazing or other agricultural purposes including structures and improvements which are within the forest fire protection areas but not meeting the detailed definitions of lands described in subsection (b), above. These lands may only be listed for payment when requested by the landowner at rates determined by the state forester and shall be submitted to the county assessor for collection and disposition as provided in Section 28-111."

Class III.

Section 2. This act shall be in full force and effect from and after its passage and approval.

Effective immediately.

Approved: February 24, 1967.

CHAPTER 149

An Act Amending Section 28-105, R.C.M., 1947, to Require That Before a Forest Fire Protection District May be Created a Hearing Shall be Held After Notice Given to All Owners to be Affected and to Require Approval Thereof by No Less Than 51% of the Owners Represent-

HeinOnline -- 1967 vol. I 267 1967

ing at Least 51% of the Acreage Included in the Proposed District; and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 28-105, R.C.M., 1947, is amended to read as follows:

Powers of board.

"28-105. **Powers of board.** To effectuate, accomplish and maintain the purposes of this act, the board is hereby authorized and empowered:

Classify forest land areas.

(a) To classify the forest land areas of the state for which conservation and fire protection measures are reasonably required, and to change or modify such classification from time to time as in its judgment shall be proper.

Create fire protection districts.

(b) To create organized forest fire protection districts; provided, however that before such district be created the board shall hold a hearing in any county in which such proposed district or a part thereof shall be included and shall give notice of such hearing at least twenty (20) days in advance thereof to all owners to be affected by such proposed district; service of such notice may be made by registered or certified mail or by publication in a newspaper published in the county in which such hearing is to be held, and if no newspaper is published in such county then in a newspaper having a general circulation therein; provided, further, that no forest fire protection district may be created unless approved in writing by vote of not less than *fifty-one percent (51%)* of the owners representing at least fifty-one percent (51%) of the acreage to be involved in such proposed forest fire protection district.

Provide fire protection.

(c) To provide through the state forester for forest fire protection of any forest lands by the state forester's organization, or by contract or any other feasible means, in co-operation with any federal, state or other recognized agency or agencies.

To make rules and regulations.

(d) To make and enforce reasonable rules and regulations for the purpose of enforcing and accomplishing the provisions and purposes of this act; provided, however, such rules and regulations shall not conflict with the powers of the state board of land commissioners.

HeinOnline -- 1967 vol. I 268 1967

(e) To co-operate with the government of the United States and any of its bureaus, services and agencies in accordance with federal statutes and regulations thereunder." To cooperate with U. S.

Section 2. This act shall be in full force and effect from and after its passage and approval. Effective immediately.

Approved: February 24, 1967.

CHAPTER 150

An Act to Amend Section 68-203, Revised Codes of Montana, 1947, Pertaining to Employees in the Sixth and Seventh Class Counties Compensated Under the Public Employees' Retirement System Act, Working for a County Hospital or County Rest Home and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 68-203, R.C.M., 1947, be, and the same is hereby amended to read as follows: Amending clause.

"68-203. **Who are ineligible to membership in system.** The following employees shall not become members of the retirement system: Ineligible for membership in retirement system.

(a) Elective officers, other than elective officers who filed with the board of administration an election in writing to become members; provided, that any person so excluded from membership, who later becomes a member hereof, shall have the option of making contributions to the retirement system in the amount which he would have contributed had he not been so excluded, and he shall then receive credit for prior service in the same manner as if he had not been so excluded. If he shall affirmatively exercise the option, the contributions of the state, or the contracting city because of his membership, shall be the same as they would have been had he not been so excluded. Elective officers.

(b) Inmates of state institutions who are allowed compensation for such service as they are able to perform. Inmates of institutions.

(c) Persons in state institutions principally for the purpose of training, but who receive compensation. Trainees.

HeinOnline -- 1967 vol. I 269 1967

Independent contractors.

(d) Independent contractors who are not employees.

Temporary employees.

(e) Employees serving in employment which does not exceed the equivalent of sixty (60) working days in any fiscal year.

Prior service personnel not electing membership.

(f) Persons in state service on July 1, 1945, or prior thereto who filed with the board of administration an election not to become members, provided any person so excluded from membership by his own election may on or before, but not after, July 1, 1948, file with the board of administration an election to become a member and receive credit for prior service, and shall become a member of the retirement system on the date of filing such election. Such person shall receive credit for prior service only if his election to become a member is filed with the board on or before, but not after July 1, 1948, and shall have the option of paying to the retirement system all or part of the amount which he would have contributed had he not been so excluded but had been a member to and including the date of filing such election to become a member, plus interest which would have accumulated thereon through such date. Upon the retirement of such person under section 68-801, the pensions provided by contributions of the state under this act shall be the same as if such person affirmatively exercised the option to pay to the retirement system all of that amount with accumulated interest.

Appointees.

(g) Persons directly appointed by the governor, who do not file with the board of administration an election in writing to become members.

Members of other retirement systems.

(h) Persons who are members of any other retirement or pension system supported wholly or in part by funds of the United States government, any state government or political subdivision thereof and who are receiving credit in such other system for service, it being the purpose of this section to prevent a person from receiving credit for the same service in two (2) retirement systems supported wholly or in part by public funds, and no person shall receive such credit under any circumstances. Any member of the retirement system who, because of his employment by the state, shall be required to become a member of any such other systems, shall be considered solely for the purposes of section 68-701 (m) as permanently separated from state service. The accumulated

HeinOnline -- 1967 vol. I 270 1967

contributions of any member who shall have died after becoming a member of such other system and before receiving said accumulated contributions, shall be paid to the beneficiary nominated by him to receive any death benefit payable under section 68-1101. Contributions to the retirement fund under section 68-1307 on the basis of compensation earned by members after the effective date of termination of membership herein because of the membership in such other system, shall be repaid to the fund from which said contributions were made. For the purpose of this section, persons who merely are receiving pensions or retirement allowances, or other payments, from any source whatever, on account of service rendered to some other agency than the state and when such persons were not in state service, shall not be considered, because of such receipt, members of any other retirement or pension system.

Appointive commission members.

(i) Appointive members of boards and commissions who serve the state or contracting agency on an intermittent basis, and who are paid on a per diem basis.

Persons 60 years of age or greater.

(j) Persons who become public employees under the meaning of this act after they have reached their sixtieth (60) birthday and have no creditable service in this system, and who do not file with the board of administration an election to become members."

County hospital employees in 6th and 7th class counties.

(k) Employees of county hospitals or county rest homes in the sixth and seventh class counties unless they elect to file with the board of administration an election in writing to become members.

Effective immediately.

Section 2. This act is to be in full force and effect from and after the date of its passage and approval.

Approved: February 24, 1967

CHAPTER 151

An Act to Amend Section 23-902, R.C.M. 1947, to Change the Date of the Primary Election.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That Section 23-902, Revised Codes of Montana, 1947, is amended to read as follows:

HeinOnline -- 1967 vol. I 271 1967

Date of holding primary election —purpose.

"23-902. **Date of holding primary election—purpose of.** *On the first Tuesday of June,* preceding any general election not including special elections to fill vacancies, municipal elections in towns and cities, irrigation district and school elections, at which public officers in this state and in any district or county are to be elected, a primary nominating election shall be held in accordance with this act in the several election precincts comprised within the territory for which such officers are to be elected at the ensuing election, which shall be known as the primary nominating election, for the purpose of choosing candidates by the political parties, subject to the provisions of this act, for United States senators and representatives, in Congress and all other elective state, district and county officers, and delegates to any constitutional convention or conventions that may hereafter be called, who are to be chosen, at the ensuing election wholly by electors within the state, or any subdivision of this state, and also for choosing and electing county central committeemen and committeewomen by the several parties subject to the provisions of this act."

Approved: February 24, 1967.

CHAPTER 152

An Act Amending Section 14-132, Revised Codes of Montana, 1947, Authorizing the State Examiner to Designate Accountants or Representatives of the Montana Credit Unions League as Examiners of Credit Unions, Using Such Forms and Providing Such Information as the State Examiner May Require, and Providing for Payment for Examinations by Such Designees.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 14-132, R.C.M. 1947, is amended to read as follows:

Reports.

"14-132. **Reports, examinations and fees.** Credit unions shall be under the supervision of the supervisor and shall make financial reports to him as and when he may require, but at least semiannually. Each credit union shall be subject to a regular examination annually by, and for this purpose shall make its books and records acces-

Examinations.

HeinOnline -- 1967 vol. I 272 1967

sible to, any person designated by the supervisor; except that special examinations may be made more frequently where there is clear and incontrovertible evidence of immediate danger or damage to, or impairment of members' shareholdings. *Accountants or representatives of the Montana Credit Unions League may be designated examiners by the supervisor. If the examination is not made by the state examiner, the expense of such examination shall be borne by the credit union examined, and such examination shall be in such form and contain such information as the state examiner may require.* Fees assessed for examinations *by the supervisor* shall not exceed the following schedule: The first $25,000 of assets to be assessed at $.22 per $100 of assets, the next $75,000 of assets to be assessed at $.20 per $100 of assets, the next $100,000 of assets to be assessed at $.18 per $100 of assets, the next $300,000 of assets to be assessed at $.14 per $100 of assets, the next $500,000 of assets to be assessed at $.10 per $100 of assets, and assets in excess of $1,000,000 shall be assessed at $.03 per $100 of assets. The minimum fee chargeable shall be $17."

Examiners.

Fees.

Approved: February 24, 1967.

CHAPTER 153

An Act to Amend Section 75-1904, R.C.M., 1947, Providing for a Census of Handicapped Children When Required by the Superintendent of Public Instruction, Instead of Quadrennially.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 75-1904, R.C.M., 1947, is amended to read as follows:

Amending clause.

"75-1904. **Checking census reports—maintaining files —census of handicapped.** It shall be the duty of the county superintendent of schools upon receipt of the report as provided in section 75-1903 to carefully examine the same and check it for errors or duplications with other census reports filed by other clerks of school districts of his county. For the purposes of assisting him in checking duplication in such reports, he shall make an alphabetical card index, classified by families, showing the names

Checking census reports.

Maintaining files.

HeinOnline -- 1967 vol. I 273 1967

of all children on the school census, which index shall be kept current according to the census reports turned in to him each year. If the name of the same person be found upon more than one report or if the report contains names which are fictitious or names which properly belong in some other school district, he shall strike out such fictitious names and all duplicate names from all lists except that of the district in which such person was residing in good faith on the first day of October. If the county superintendent should find upon any census list the names of any persons who he believes were not residents in good faith in such district as aforesaid or which he believes are fictitious, he shall notify the clerk of the particular school district and if said clerk shall not establish the correctness of the list within fifteen (15) days after such notification, such names shall be stricken from the list. At the time of taking the annual census the clerk, with the co-operation of the public health nurse or school nurse or public health medical officer, shall use reasonable diligence to ascertain the names of all handicapped children in the district and such information concerning the same as is required by the state superintendent of public instruction, except that such a survey of handicapped children need not be conducted annually but shall be made at the time of the annual school census *when required* by the state superintendent of public instruction in co-operation with the state board of health."

Fictitious names.

Census of handicapped.

Approved: February 24, 1967.

CHAPTER 154

An Act to Submit to the Qualified Electors of Montana An Amendment to Section 31 of Article V, of the Constitution of the State of Montana, Relating to the Terms of Office and Salaries of Public Officers; to Remove the Prohibition Against Increase of Such Salaries During the Terms for Which Such Officers Have Been Elected or Appointed.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 31, article V, of the constitution of the state of Montana, is amended to read as follows:

HeinOnline -- 1967 vol. I 274 1967

"Sec. 31. Except as otherwise provided in this constitution, no law shall extend the term of any public officer, or diminish his salary or emolument after his election or appointment; provided, that this shall not be construed to forbid the legislative assembly from fixing the salaries or emoluments of those officers first elected or appointed under this constitution, where such salaries or emoluments are not fixed by this constitution." Constitutional amendment relating to terms of office and salaries of public officers submitted to electors.

Section 2. When this amendment is submitted to the electors of the state of Montana, there shall be printed on the ballot the full title and section 1 of this act and the following words: Form of ballot.

"[ ] For the above amendment.

[ ] Against the above amendment."

Approved: February 24, 1967.

CHAPTER 155

An Act to Amend Section 11-729, R.C.M. 1947, Relating to the Salary of the City Attorney, Providing that Said Salary Must be Fixed by Ordinance; Deleting Certain Portions of the Act Fixing the Salary at Specified Amounts; and Repealing All Acts and Parts of Act in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That section 11-729, R.C.M. 1947, be, and the same is hereby amended to read as follows: Amending clause.

"11-729. **Salary of city attorney.** The annual salary and compensation of the city attorney must be fixed by ordinance." Salary of city attorney.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed. Repealing clause.

Approved: February 24, 1967.

CHAPTER 156

An Act to Amend Section 11-731, R.C.M. 1947, Relating to Salary of City Clerk, Providing That Said Salary

HeinOnline -- 1967 vol. I 275 1967

Must be Fixed by Ordinance; Deleting Certain Portions of the Act Fixing the Salary at Specified Amounts and Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 11-731, R.C.M. 1947, relating to the salary of the city clerk be amended to read as follows:

Salary of city or town clerk.

"11-731. (5025) **Salary of city or town clerk.** The annual salary and compensation of the city or town clerk must be fixed by ordinance."

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Approved: February 24, 1967.

CHAPTER 157

An Act to Amend Section 11-967, R.C.M. 1947, to Provide That City and Town Councils Have Power to Regulate and Provide for the Construction of Sidewalks, Foot Pavements, Curbs, Gutters, or any Combination Thereof, and Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 11-967, R.C.M. 1947, is hereby amended to read as follows:

Regulation of sidewalks, curbs and gutters.

"11-967. **Sidewalks, foot pavements,** *curbs and gutters.* The city or town council has power: To regulate and provide for the construction or repair of sidewalks, foot pavements, *curbs, gutters, or any combination thereof,* and if the owner of any lot fails to comply with the provisions of the ordinance within such time as may be prescribed thereby, the council may contract for the construction and repair of such sidewalks, pavements, *curbs, gutters, or any combination thereof,* and the city or town may pay for the same, and the amount so paid is a lien upon the lot, and may be enforced or the amount may be recovered against the owner by a suit before any court of competent jurisdiction."

HeinOnline -- 1967 vol. I 276 1967

Section 2. That all acts and parts of acts in conflict herewith are hereby repealed. Repealing clause.

Approved: February 24, 1967.

CHAPTER 158

An Act Providing for the Montana Water Resources Act of 1967; Providing an Expanded Statement of State Necessity and Policy Relating to Water Resources; Amending Section 89-103, R.C.M. 1947, Providing That the Name of the State Water Conservation Board Shall be Changed to Montana Water Resources Board; Providing Additional Powers for the Montana Water Resources Board; Providing for a Comprehensive Inventory of Water Resources; Providing for a State Water Plan; Amending Section 89-102, R.C.M. 1947, Providing Additional Definitions; Amending Section 89-813, R.C.M. 1947, Providing That County Clerks and Recorders Shall Furnish the Montana Water Resources Board with Copies of Water Appropriations and Transfers of Water Appropriations; and Repealing Section 89-101, R.C.M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. This act shall be known and may be cited as the "Montana Water Resources Act of 1967." "Montana Water Resources Act of 1967."

Section 2. **State necessity and policy.** It is hereby declared that:

(1) The general welfare of the people of Montana, in view of the state's population growth and expanding economy, requires that water resources of the state be put to optimum beneficial use and not wasted. Beneficial use of water required.

(2) The public policy of the state is to promote the conservation, development and beneficial use of the state's water resources to secure maximum economic and social prosperity for its citizens. Promote conservation, development and beneficial use.

(3) The state, in the exercise of its soverign power, acting through the water resources board, hereinafter created, shall coordinate development and use of the water resources of the state so as to effect full utilization, conservation and protection of its water resources. Coordination of development and use.

HeinOnline -- 1967 vol. I 277 1967

Development, utilization and distribution are vital.

(4) The development and utilization of water resources, and the efficient, economic distribution thereof, are vital to the people in order to protect existing uses and to assure adequate future supplies for domestic, industrial, agricultural and other beneficial uses.

Protection of resources.

(5) The water resources of the state must be protected and conserved to assure adequate supplies for public recreational purposes and for the conservation of wildlife and aquatic life.

Construction, operation and maintenance of system.

(6) The public interest requires the construction, operation and maintenance of a system of works for the conservation, development, storage, distribution and utilization of water, which said construction, operation and maintenance is a single object and is in all respects for the welfare and benefit of the people of the state.

Coordination of local, state and federal agencies.

(7) It is necessary to coordinate local, state and federal water resource development and utilization plans and projects through a single agency of state government, hereinafter created and to be known as the "Montana water resources board".

Coordination of all resources.

(8) The greatest economic benefit to the people of Montana can be secured only by the sound coordination of development and utilization of water resources with the development and utilization of all other resources of the state.

"State water plan."

(9) To achieve these objectives, and to protect the waters of Montana from diversion to other areas of the nation, it is essential that a comprehensive coordinated multiple-use water resource plan be progressively formulated, to be known as the "state water plan".

Amending clause.

Section 3. Section 89-102, R.C.M. 1947, is amended to read as follows:

"89-102. **Definitions.** As used in this act, the following words and terms shall have the following meanings:

"Board."

(a) The word 'board' shall mean the *Montana water resources* board hereinafter created.

"Works."

(b) The word 'works' shall be deemed to include all property, rights, easements and franchises relating thereto and deemed necessary or convenient for their operation, and all water rights acquired or exercised by the board

HeinOnline -- 1967 vol. I 278 1967

in connection with such works, and shall embrace all means of conserving and distributing water, including, without limiting the generality of the foregoing, reservoirs, dams, diversion canals, distributing canals, waste canals, drainage canals, dikes, lateral ditches and pumping units, mains, pipelines and waterworks systems and shall include all such works for the conservation, development, storage, distribution and utilization of water including, without limiting the generality of the foregoing, works for the purpose of irrigation, flood prevention, drainage, fish and wildlife, recreation, development of power, watering of stock, supplying of water for public, domestic, industrial or other uses and for fire protection.

"Cost of works."

(c) The term 'cost of works' shall embrace the cost of construction, the cost of all lands, property, rights, easements and franchises acquired, which are deemed necessary for such construction, the cost of all water rights acquired or exercised by the board in connection with such works, the cost of all machinery and equipment, financing charges, interest prior to and during construction and for a period not exceeding three (3) years after the completion of construction, cost of engineering and legal expenses, plans, specifications, surveys, estimates of cost, and other expenses necessary or incident to determining the feasibility or practicability of any project, administrative expense and such other expenses as may be necessary or incident to the financing herein authorized and the construction of the works and the placing of the same in operation; provided, however, the board in determining the cost of works may make nonreimbursable allowances for costs of public benefits, including but not limited to, irrigation, recreation, flood prevention, fish and wildlife, and stream stabilization.

"Owner."

(d) The word 'owner' shall include all individuals, irrigation districts, drainage districts, flood control districts, incorporated companies, societies or associations having any title or interest in any properties, rights, easements or franchises to be acquired.

"Project."

(e) the word 'project' shall mean any one of the works hereinabove defined or any combination of such works which are physically connected or jointly managed and operated as a single unit.

Allocation of water rights.

(f) In case any water rights shall be acquired or exercised by the board in connection with two *(2)* or more

HeinOnline -- 1967 vol. I 279 1967

works and/or projects, the board by resolution shall apportion or allocate to each of such works and/or projects such part of such water rights as it may determine, and upon the adoption of such a resolution, such water rights shall be deemed to be a part of each of such works and/or projects to the extent that such water rights have been so apportioned or allocated thereto respectively."

Amending clause.

Section 4. Section 89-103, R.C.M. 1947, is amended to read as follows:

Montana water resources board.

"89-103. *Montana water resources* **board — officers — meetings—quorum—employees—counsel—compensation.**

(1) There is hereby created a board to be known as the '*Montana water resources* board,' and by that name the board may sue and be sued, plead and be impleaded, and contract and be contracted with. *Wherever in this code the words, 'state water conservation board' shall be used they shall mean the 'Montana water resources board.'* The board shall consist of seven (7) members, including the governor and director who shall be members ex officio.

Members.

The five (5) remaining members shall be qualified electors of the state and shall be appointed by the governor with the consent of the senate, and shall serve for a term of six (6) years, except that immediately after the effective date of this act the governor shall appoint two (2) members of the board whose term of office shall expire on the second Monday in January, 1967, another two (2) members of the board whose term of office shall expire on the second Monday in January, 1969, and one (1) member of the board whose term of office shall expire on the second Monday in January, 1971, and their successors shall be appointed for a term of six (6) years, except that any person appointed to fill a vacancy shall be eligible for re-

Removal—vacancy.

appointment. Any of the appointed members of the board may be removed by the governor at any time, and any vacancy caused by the death, removal, or resignation or disqualification of any appointed member shall be filled by appointment as hereinabove provided. Succeeding appointments, except when made to fill a vacancy, shall be made on or before the second (2) Monday in January during the biennial session of the legislative assembly preceding the commencement of the term for which the

Oath.

appointment is made. Before entering upon the discharge of his duties, each appointed member shall take, subscribe

HeinOnline -- 1967 vol. I 280 1967

and file with the secretary of state the oath prescribed by the constitution.

Officers.

(2) The governor shall be the chairman of the board and the vice-chairman shall be the secretary and treasurer of the board. The board shall maintain its principal office in the city of Helena and may maintain such branch offices as it may determine. It shall elect a vice-chairman at its first meeting who shall preside at all meetings of the board when the chairman thereof is absent. It may provide for the holding of regular meetings and may hold a special meeting for the transaction of any business which may properly come before the board at any time and at any place in the state upon the call of the chairman or the vice-chairman or any two (2) members, notice of which may be given by telegram or by depositing in the mails at least forty-eight (48) hours before the meeting; but no notice shall be necessary if at least four (4) members of the board shall be present. A majority in number of the members shall constitute a quorum and the affirmative or negative vote of four (4) members shall be necessary to bind the board.

Meetings.

Quorum.

Seal—rules and regulations.

(3) The board shall have and adopt a seal bearing its name, which seal shall be affixed to such records and other instruments as it may direct, and all courts shall take judicial notice of said seal. It is authorized to adopt from time to time, as necessary or expedient, suitable rules and regulations for the administration of this act. The attorney general shall act as legal adviser for the board and shall perform such legal services as the board may request; he shall receive his actual and necessary expenses when engaged in travel in the performance of such services. With his consent the board may employ additional legal counsel, and the board may also appoint such technical and other assistants and employees as may be necessary to enable it to perform its duties and carry out the purposes of this act, and may fix their compensation.

Legal adviser.

Technical assistants.

Compensation.

(4) Each appointed member of the board shall receive, as compensation for his services, the sum of twenty dollars ($20) per day for each day actually engaged in the performance of the duties of his office, including time of travel between his home and the place at which he performs such duties, together with actual traveling and maintenance expenses while away from his home in the

HeinOnline -- 1967 vol. I 281 1967

performance of the duties of his office. All such compensation and expenses shall be paid solely from the funds provided under the authority of this act."

Powers and duties of board.

Section 5. **Powers and duties of the board.** In addition to any other power or duty authorized or imposed by provisions of this code, the board shall be empowered, and a duty is hereby enjoined thereon, to:

Gather information—resource inventory.

(1) Gather from any source reliable information relating to Montana's water resources, and prepare therefrom a continuing comprehensive inventory of the water resources of the state. In preparing said inventory, the board may conduct studies, adopt studies made by other competent water resource groups including federal, regional, state or private agencies, perform research or employ other competent agencies to perform research on a contract basis, and hold public hearings in affected areas at which all interested parties shall be given an opportunity to appear.

"State water plan."

(2) Formulate and adopt, and from time to time amend, extend or add to, a comprehensive, coordinated multiple-use water resources plan, known as the "state water plan." Said state water plan may be formulated and adopted in sections, said sections corresponding with hydrologic divisions of the state. The state water plan shall set out a progressive program for the conservation, development and utilization of the state's water resources, propose the most effective means by which these water resources may be applied for the benefit of the people, with due consideration of alternative uses and combinations of uses. Before adoption of the state water plan, or any section thereof, the board shall hold public hearings in the state, or in an area of the state encompassed by a section thereof if adoption of a section is proposed. Notice of said hearing or hearings shall be published for two (2) consecutive weeks in a newspaper of general county circulation in each county encompassed by the proposed plan or section thereof at least thirty (30) days prior to said hearing.

Program to set out.

Hearings.

Notice.

Legislative recommendations.

(3) Submit to each general session of the legislature the state water plan or any section thereof or amendments, additions or revisions thereto which the board shall have formulated and adopted.

HeinOnline -- 1967 vol. I 282 1967

(4) Prepare a continuing inventory of the groundwater resources of the state. Said groundwater inventory shall be included in the comprehensive water resources inventory described in subsection (1) above, but shall be a separate component thereof. Continuing inventory.

(5) Publish the comprehensive inventory, the state water plan, the groundwater inventory, or any part of each, and may assess and collect a reasonable charge for said publications. Publish inventory.

(6) Promulgate rules and regulations necessary to effect the purposes of this act. Rules and regulations.

Section 6. Section 89-813, R.C.M. 1947, is amended to read as follows:

"89-813. **Record of declaration.** Persons who have heretofore acquired rights to the use of water shall, within six *(6)* months after the publication of this chapter, file in the office of the county clerk of the county in which the water right is situated, a declaration in writing, except notice be already given of record as required by this chapter, or a declaration in writing be already filed as required by this section, containing the same facts as required in the notice provided for record in section 89-810 of this chapter, and verified as required in said last-mentioned section, in cases of notice of appropriation of water; provided, that a failure to comply with the requirements of this section shall in nowise work a forfeiture of such heretofore acquired rights, or prevent any such claimant from establishing such rights in the courts. *From and after July 1, 1967, the county clerk and recorder shall forward to the water resources board a copy of any instrument of water appropriation or instrument transferring any water appropriation which is filed as provided in this section."* Record of declaration. Instruments transferring appropriations.

Section 7. Section 89-101, R.C.M. 1947, is repealed. Repealing clause.

Approved: February 24, 1967.

CHAPTER 159

An Act Providing That Reports Under the Volunteer Firemen's Pension Plan Shall Be Made by the Public

HeinOnline -- 1967 vol. I 283 1967

Employees' Retirement System, and That Reports Under the Volunteer Firemen's Compensation Act Shall Be Made by the Industrial Accident Board; Amending Section 11-2029, R.C.M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 11-2029, R.C.M. 1947, is amended to read as follows:

Reports of I.A.B. and P.E.R.S.

"11-2029. **Reports of** *industrial accident board and* **public employees' retirement system.**

Reports under volunteer firemen's compensation act.

(1) The *industrial accident board* shall, at the time specified in section 92-842 for making report therein provided, make a report to the governor covering the operations and proceedings for the preceding fiscal year relative to its administration under *the volunteer firemen's compensation act,* with such suggestions or recommendations as it may deem of value for public information.

Reports under volunteer firemen's pension plan.

(2) The public employees' retirement system shall, *not later than the first day of November of each year, make a report to the governor covering the operations and proceedings for the prior fiscal year relative to its administration under the volunteer firemen's pension plan, with such suggestions or recommendations as it may deem of value for public information.*

Reports available.

(3) Copies of *all* such *reports* shall be made available *by the industrial accident board or the public employees' retirement system* to the chief or other representative of any volunteer fire company or companies within the state of Montana which shall at any time request the same."

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Effective immediately.

Section 3. This act shall be in full force and effect upon its passage and approval.

Approved: February 27, 1967.

CHAPTER 160

A Bill to Clarify the Operation and Administration of the Volunteer Firemen's Pension Plan, to Designate the Public Employees' Retirement Board to Operate and

HeinOnline -- 1967 vol. I 284 1967

Administer the Plan, and to Provide for Annual Reports to the Public Employees' Retirement Board of the Balance Remaining in the Volunteer Firemen's Compensation Fund at the End of Each Fiscal Year, to Authorize the Public Employees' Retirement Board to Make Rules and Regulations in Connection With the Administration of the Plan, and to Provide That Expenses in Connection With Operation of the Plan Shall Be a Charge Against the Fund; Amending Sections 11-2022, 11-2024, 11-2026 and 11-2027, R.C.M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 11-2026, R.C.M. 1947, is amended to read as follows: Amending clause.

"11-2026. **Administration of act.** *(1) Except as provided hereinafter, the* industrial accident board of the state of Montana shall administer *the Volunteer Firemen's Compensation Act,* and all payments made *under subparagraph (1) of section 11-2025, R.C.M. 1947,* shall be made by warrants drawn by the board. Administration of act—I.A.B. and P.E.R.S.

(2) *The board of administration of the public employees' retirement system of the state of Montana shall administer the volunteer firemen's pension plan, and all payments made under subparagraph (2) of section 11-2025 shall be made by warrants drawn by the public employees' retirement system. Annually, on or before fifteen (15) days after the close of each fiscal year, the industrial accident board shall notify the secretary or board of administration of the public employees' retirement system in writing of the balance remaining in the volunteer firemen's compensation fund as of the end of said fiscal year.''*

Section 2. Section 11-2027, R.C.M. 1947, is amended to read as follows: Amending clause.

"11-2027. **Rules and regulations to be made by industrial accident board** *and board of administration of public employees' retirement system.* The industrial accident board shall make such rules and regulations as it deems necessary and advisable in *its* administration of *the Volunteer Firemen's Compensation Act,* not inconsistent with the provisions hereof. *The board of administration of the public employees' retirement system shall make such rules and regulations as it deems necessary and advisable in its administration of the volunteer firemen's pension plan, not* Rules and regulations—I.A.B. and P.E.R.S.

HeinOnline -- 1967 vol. I 285 1967

inconsistent with the provisions hereof. Necessary expenses *of the industrial accident board* for office supplies, stationery and forms *in connection with its administration of the Volunteer Firemen's Compensation Act* shall be a charge against the fund. *Necessary expenses of the public employees' retirement system for office supplies, stationery and forms in connection with its administration of the volunteer firemen's pension plan shall be a charge against the fund, and shall be drawn from said fund by the public employees' retirement system through warrants to be executed by the industrial accident board upon request of the public employees' retirement system, at such intervals as the board of administration of the public employees' retirement system shall deem proper.*"

Amending clause.

Section 3. Section 11-2022, R.C.M. 1947, is amended to read as follows:

"11-2022. **Disability, death, insurance and pension benefits.**

Disability.

1. Every member of a fire company organized in an unincorporated area, town or village under the laws of this state, shall be entitled to receive compensation for disability incurred while in the performance of his duties as such fireman, when such disability necessitates the services of a physician or surgeon, while confined or non-confined, in the following amounts:

a. If confined to a hospital, the actual cost of hospitalization, and the reasonable charges of a duly licensed physician or surgeon, not to exceed two thousand five hundred dollars ($2,500).

b. If not confined to a hospital, the actual reasonable charges of a duly licensed physician or surgeon, not to exceed seven hundred fifty dollars ($750).

c. If confined to his home, and such confinement necessitates the services of a nurse, then the actual charges of such nurse, together with the actual reasonable charges of a duly licensed physician or surgeon, not to exceed one thousand seven hundred fifty dollars ($1,750).

Dismemberment.

2. Where an injury incurred in line of such duty results in the loss by amputation of an arm, hand, leg or foot, or the enucleation of an eye, or the loss of

HeinOnline -- 1967 vol. I 286 1967

any of the natural teeth, the board shall order them an artificial member or members be furnished to supply the loss thereof. The expense of furnishing such members shall not exceed the following amounts: Hand or arm to elbow, two hundred fifty dollars ($250); arm above elbow, three hundred dollars ($300); foot or leg, two hundred fifty dollars ($250); eye, twenty-five dollars ($25); teeth, one hundred seventy-five dollars ($175). The replacement of an artificial member so furnished shall be required every five (5) years, if necessary.

Death.

3. To aid in defraying funeral expenses of a fireman covered under this act whose death occurs in line of duty, an amount not to exceed the sum of two hundred fifty dollars ($250) shall be allowed.

Insurance and pension benefits.

4. To encourage and aid volunteer fire departments to maintain group insurance for benefits on account of death or injury incurred by members while in the performance of duties as volunteer firemen, the sum of fifty dollars ($50) per year for each mobile unit of fire-fighting equipment, not exceeding two (2) such units in number for any such department, shall be paid to each volunteer fire department maintaining such insurance, or to the organization or agency maintaining such insurance for any such volunteer fire department.

Pension plan.

5. Every volunteer fireman who shall meet the qualification requirements set forth in subparagraph two (2) of section 11-2023, and who shall complete and file the claim provided for under subparagraph two (2) of section 11-2024, shall be entitled thereafter to participate in the volunteer firemen's pension plan throughout the remainder of his lifetime and to receive payments thereunder computed each year in the following manner. Whenever at the close of business on the last day of any fiscal year there shall be a balance in the volunteer fireman's compensation earmarked revenue account in the earmarked revenue fund in excess of one million dollars ($1,000,000) then *the industrial accident board shall pay over said excess amount to the public employees' retirement system, for the payment by said public employees' retirement system* of pensions to qualified volunteer firemen during the immediately succeeding fiscal year. The amount to be paid to each qualifying volunteer fireman shall be determined by dividing said excess amount

HeinOnline -- 1967 vol. I 287 1967

by the number of volunteer firemen qualifying to participate in such pension plan at the beginning of such succeeding fiscal year. If such excess amount shall be sufficient to pay each such qualified volunteer fireman at least twenty dollars ($20) per month throughout such succeeding fiscal year, then such pension shall be paid monthly, on or before the last day of each month of such succeeding fiscal year; but if said excess amount shall not be sufficient to pay each qualified volunteer fireman at least twenty dollars ($20) per month, then each qualified volunteer fireman's full pension for that year shall be paid to him in one lump payment on or before the fifteenth day of December of such year; provided, however, that in any event the total pension payable hereunder to any qualified volunteer fireman shall not exceed the sum of twenty-five dollars ($25) per month, and the amount to be set aside hereunder from the volunteer fireman's compensation earmarked revenue account in the earmarked revenue fund at the beginning of any fiscal year for the funding of such pensions shall not in any event exceed the amount necessary to pay such maximum of twenty-five dollars ($25) per month to each volunteer fireman qualified as of the beginning of such fiscal year. The fiscal year for the purpose of this act shall begin on the first day of July of each year, and end on the last day of June of each year."

Amending clause.

Section 4. Section 11-2024, R.C.M. 1947, is amended to read as follows:

"11-2024. **Claim for compensation—contents—filing—limitation on time for filing—addition of name to pension list.**

Claim for compensation—contents—filing—time limitation.

(1) A fireman claiming compensation under subparagraphs one (1), two (2), three (3) or four (4), of section 11-2022, must file his claim with the industrial accident board upon a form to be provided therefor, which claim shall contain the name and address of the claimant, date, place and manner of incurring of disability, name and address of attending physician or surgeon and/or nurse, if any, dates of confinement, if confined, or if not confined, dates of attendance by physician or surgeon, dates of attendance by nurse; affidavit of attending physician or surgeon as to nature of disability, number and dates of attendance and statement of charges; if confined to hospital, an affidavit of person in charge stating nature

HeinOnline -- 1967 vol. I 288 1967

of disability, dates of confinement and expenses incurred while so confined; affidavit of chief or secretary of fire company stating that said fire company was duly organized under the laws of Montana in an unincorporated town or village, statement that claimant was, at the date of disability an active enrolled member of such company, and that the disability was incurred in line of duty; an affidavit of the nurse stating the nature of disability, dates of attendance, and statement of charges for services; said claim shall be verified by the claimant, the attending physician or surgeon and nurse, if any, and by the person in charge of the hospital, if confined; said claim shall be filed with the board within one *(1)* year from date of disability.

Addition of name to pension list.

(2) A volunteer fireman claiming eligibility under the volunteer fireman's pension plan must file his claim with the public employees' retirement system upon a form to be provided therefor by *the public employees' retirement system,* which claim shall contain the name, address and date of birth of the claimant; the fiscal year for which his eligibility shall commence; the years during which his service as a volunteer fireman was rendered and the name or names of the volunteer fire company or companies with which such service was rendered. Such claim shall be filed on or before the first day of May of any year. The public employees' retirement system may require such proof of age and service as it may deem proper, but the certificates filed or to be filed under section 11-2007 and subparagraph 2 of section 11-2023 shall be accepted by *the public employees' retirement system* as prima facie proof of such service. If such claim be properly filed and such claimant be found by the public employees' retirement system properly qualified to participate in such volunteer firemen's pension plan, then the name of the claimant shall be added to the list of qualified volunteer firemen, and the claimant shall then be entitled to participate in said volunteer firemen's pension plan as of the fiscal year beginning the first day of July following the filing of such claim."

Repealing clause.

Section 5. All acts and parts of acts in conflict herewith are hereby repealed.

Effective immediately.

Section 6. This act shall be in full force and effect upon its passage and approval.

Approved: February 27, 1967.

HeinOnline -- 1967 vol. I 289 1967

CHAPTER 161

An Act to Extend to September 1, 1968, the Time for Filing Certificates for Credit for Prior Service for the Purpose of the Volunteer Firemen's Pension Plan; Amending Section 11-2023, R.C.M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 11-2023, R.C.M. 1947, is amended to read as follows:

Qualification for compensation.

"11-2023. **Qualification for compensation.** (1) In order to qualify for the compensation provided under subparagraphs one (1), two (2), three (3) and four (4) of section 11-2022, the fireman must be an enrolled active member of a fire company organized under the laws of the state of Montana in an unincorporated town or village, at the time of such injury or sickness for which compensation hereunder is claimed.

Member to meet requirements.

(2) In order to qualify for participation in the volunteer firemen's pension plan under subparagraph five (5) of section 11-2022, a volunteer fireman must meet each of the following requirements:

Twenty years service—qualifications.

(A) He must have completed a total of twenty *(20)* years' service as an active volunteer fireman and as an active member of a qualified volunteer fire company organized under the laws of the state of Montana in an unincorporated area, town or village; provided, that from and after July 1, 1965, no volunteer fireman shall receive credit for any year of membership in any such volunteer fire company unless throughout such year such volunteer fire company shall have maintained fire-fighting equipment in serviceable condition of a value of seven hundred fifty dollars ($750) or more, and unless throughout such year such volunteer fire company, or the fire district served thereby, shall have been rated in class five (5), six (6), seven (7), eight (8) or nine (9) by the board of fire underwriters for the purpose of fire insurance premium rates; provided, further, that such twenty *(20)* years of active service shall be cumulative and need not be continuous, and that such service need not be acquired with one *(1)* single fire company, but may be a total of separate periods of active service with different fire companies organized under the laws of the state of Montana in different fire districts in unincorporated areas, towns or villages. From and after passage of this act, the annual period of service

HeinOnline -- 1967 vol. I 290 1967

for the purpose of this act shall be the fiscal year; no fractional part of any year shall count toward the twenty-year service requirement, and to receive credit for any particular year a volunteer fireman must serve with one (1) particular volunteer fire company throughout that entire fiscal year;

Fifty-five years of age.

(B) He must have attained the age of fifty-five (55) years (but he need not be an active volunteer fireman or an active member of any volunteer fire company at the time of reaching such age); and

Thirty hours of instruction during each of twenty years—qualifications.

(C) During each of the twenty (20) years for which he claims credit under subparagraph (A) above, he must have completed a minimum of thirty (30) hours of instruction in matters pertaining to fire fighting, under a program formulated and supervised by the chief of his volunteer fire company. Provided, however, that any volunteer fireman who is an active member of a volunteer fire company organized under the laws of the state of Montana in an unincorporated area, town or village at the time of passage of this act shall receive credit against the said twenty (20) year service requirement to the extent of one (1) year's credit for each two (2) year's service completed or to be completed by him prior to July 1, 1965, as such active member of any such volunteer fire company or companies; for the purpose of this credit for prior service it shall not be necessary either that the volunteer fire company or companies with which such service has been rendered shall satisfy the requirements of subparagraph (A) above, or that the individual volunteer fireman shall during such prior service have satisfied the requirements of subparagraph (C) above; but in any event no more than ten (10) years' credit shall be allowed any such volunteer fireman by reason of such service prior to July 1, 1965. For the purpose of establishing such prior service credit, the chief of each volunteer fire company shall *on or before September 1, 1968,* prepare and file with the public employees' retirement system of the state of Montana a certificate, subscribed and verified under oath, setting forth the names and residence addresses of each of the members of his volunteer fire company who shall have qualified for one (1) or more years' credit for prior service, and setting forth the number of years of credit to which each thereof shall be entitled.''

Approved: February 27, 1967.

HeinOnline -- 1967 vol. I 291 1967

CHAPTER 162

An Act Amending Section 69-3601, R.C.M. 1947, Permitting Any County, City or Town to Contract With Any County, City or Town for the Purpose of Establishing a Joint Ambulance Service; Providing That Each County, City or Town May Levy a Tax Up to One (1) Mill to Defray the Costs of Ambulance Service; and Providing for Joint Ambulance Service Between Counties, Cities or Towns Upon Petition of Not Less Than Fifteen Percent (15%) of the Registered Voters of the Counties, Cities or Towns at the Last General Election and Provide an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 69-3601, R.C.M. 1947, is amended to read as follows:

Establishment of service authorized—costs—petition.

"69-3601. **Establishment of service authorized—costs—petition.** A county, city or town, acting through its governing body, may establish and maintain an ambulance service for such county, city or town. *Any county, city or town* may contract with *any* county, city or town to establish and maintain a joint ambulance service and to share the costs, such costs to be apportioned according to the benefits to accrue, the proportion to be paid by each to be fixed in advance by joint resolution by the respective governing bodies, if the governing body has received a petition signed by *fifteen per centum (15%) of the electors registered to vote in the county, city or town at the last preceding general election, or in each of the counties, cities or towns wherein a joint ambulance service is being established. In addition to all other levies authorized by law, each county, city or town may levy an annual tax up to one (1) mill on the dollar of the taxable value of all taxable property within the county, city or town to defray the costs incurred in providing ambulance service.*"

Effective immediately.

Section 2. This act shall be effective on passage and approval.

Approved: February 27, 1967.

CHAPTER 163

An Act to Allow Any School District to Establish Special Education Classes for Four (4) or More Educable Men-

HeinOnline -- 1967 vol. I 292 1967

tally Retarded or Physically Handicapped Children; to Receive Reimbursement from the State and Reducing Special Teaching Program Petition Requirements to Parents or Guardians of Four (4) Children; Amending Sections 75-5003 and 75-5005, R.C.M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 75-5003, R.C.M. 1947, is amended to read as follows: Amending clause.

"75-5003. **Local boards of trustees — powers — determination of children requiring special education and the type of education responsibility of state superintendent—reimbursement by state—computation.** Local boards of trustees.

(1) The board of trustees responsible for the operation of any school district may establish special education classes when it appears there are not less than four (4) educable mentally retarded or not less than four (4) physically handicapped children in the district. Special education classes.

(2) The board of trustees, responsible for the operation of any public school when it appears that there are not less than ten (10) educable mentally retarded or not less than ten (10) physically handicapped children in the district must maintain at least one special class for educable mentally retarded children or at least one special class for physically handicapped children, (and may provide classes for the trainable mentally retarded children). Maintenance of special class—when.

(3) In lieu of providing such special classes the board of trustees may arrange to use the services of such approved mentally retarded or physically handicapped children's classes as may exist and may provide transportation services from home to school and return for all handicapped children enrolled in a state-approved special education program of such ages as it deems wise; provided, that the local board has the right to exclude persons of severe delinquent behavior. The determination of the children requiring special education and the type of special education needed by these handicapped children shall not be the responsibility of local boards of trustees but shall be the responsibility of the state superintendent of public instruction in cooperation with appropriate medical, psychiatric and psychological advice. Two (2) or more districts may combine to provide such educational facilities. Alternative to special classes. Determination of children requiring special education.

HeinOnline -- 1967 vol. I 293 1967

Average number belonging—computation.

(4) Reimbursements on the part of the state for in-school *classes of seven (7) or more students* approved by the state superintendent of public instruction shall be computed on the basis of forty-five (45) in average number belonging. *For a class of less than seven (7) students the ANB shall be computed on the basis of the number of students at a rate not to exceed six (6) ANB per student, provided that no class of less than four (4) students shall be approved.* For other special education programs approved by the state superintendent of public instruction, including speech *and hearing* therapy, home or hospital tutoring, school-to-home telephone communication, or other individual programs, the ANB shall be computed according to a schedule prepared by the state superintendent of public instruction on the basis of the time required and the degree of special education provided; in such cases the ANB shall not exceed *six (6)* for each exceptional child enrolled in such program. Transportation reimbursements shall be made on a schedule arrived at by the state superintendent of public instruction, and such expenditures shall be added to the transportation budget of the district. The state shall reimburse two-thirds *(2/3)* of such approved transportation and the county shall reimburse the remainder of such approved transportation according to said schedule.

Transportation reimbursements.

New special education classes.

(5) Whenever a new special education class or program, to be offered for the first time in the ensuing year, has been approved by the state superintendent of public instruction prior to the adoption of the preliminary budget, the board of trustees may include in the ANB for the budget a number anticipated to be the ANB eligible for special education computation in the ensuing year, subject to the approval of the state superintendent of public instruction.

Children to be included in computing ANB.

(6) Any child who is mentally retarded, or psysically handicapped, or both, who is enrolled in a state-approved special education program which is maintained by *an elementary school* district other than the district in which such child resides, shall be included in the computation of average number belonging to the district maintaining the special education program, according to the provisions herein. The district in which such child resides shall pay to the district where such child attends an amount of tuition based on two *(2)* times the tuition rates established

HeinOnline -- 1967 vol. I 294 1967

in section 75-1630, and such payment shall be made in the manner prescribed by section 75-1630.

High school special education —other counties.

(7) Any such child who is enrolled in a state-approved high school special education program which is maintained by a high school located in a county other than the county in which such child resides, shall be included in the computation of the average number belonging to the high school maintaining the special education program, according to the provisions herein. The county in which such child resides shall pay to the high school where such child attends an amount of tuition based on two *(2)* times the tuition rates established in section 75-4230, and such payment shall be made in the manner prescribed by section 75-4230.

State institution.

(8) When children are sent to an institution supported solely by funds of the state of Montana the home district or county will not be required to pay tuition for such child."

Amending clause.

Section 2. Section 75-5005, R.C.M. 1947, is amended to read as follows:

Special teaching problem.

"75-5005. **Petition of parents for establishment of special teaching program.** The parents or guardians of *four (4)* or more *educable* mentally *retarded or four (4) or more physically* handicapped children of one (1) type living in one (1) town or in neighboring towns, which children can be taught together, may petition the district board or boards of trustees for the establishment of a special teaching program. The district board or boards of trustees shall request the state board of education for such advice and assistance as the state board of education considers appropriate in the organization of such a program."

Approved: February 28, 1967.

CHAPTER 164

An Act Amending Section 75-5001, R.C.M. 1947, Relating to Special Education of Mentally Retarded and Physically Handicapped Children, Permitting School Boards, Under Certain Circumstances, to Establish Special Education Programs for Mentally Retarded and Physically

HeinOnline -- 1967 vol. I 295 1967

Handicapped Children Under the Age of Six (6) Years, and to Receive Reimbursement from the State.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 75-5001, R.C.M. 1947, is amended to read as follows:

"75-5001. **Special education — mentally retarded children — physically handicapped children.**

Special education.

(1) Within the meaning of this act special education is that type of education requiring special facilities or instruction because of physical or mental deviation from the average on the part of some children. These handicapped are defined as follows:

Mentally retarded children.

(a). Mentally retarded children are children who are not capable of profiting from the general educational program of the public schools. These children may be considered in three *(3)* groups as follows:

Educable mentally retarded.

(i) Educable mentally retarded. Those children who, at maturity, cannot be expected to attain a level of intellectual functioning greater than that commonly expected from an eleven-year-old, but not less than that of a seven-year-old.

Trainable mentally retarded.

(ii) Trainable mentally retarded. Those children who, at maturity, cannot be expected to attain a level of intellectual functioning greater than that commonly expected of a seven-year-old and who, for entrance into a training program, are capable of walking, of clean bodily habits, and of obedience to simple commands.

Custodial mentally retarded.

(iii) Custodial mentally retarded. Those children who do not show a likelihood of attaining clean bodily habits, responsiveness to directions, or means of intelligible communication. The public schools are to assume responsibility for the educable group, and may assume responsibility for the trainable group.

Physically handicapped children.

(b). Physically handicapped children are those children who are capable of profiting from the general education program of the public schools, but who need special equipment, special services, and transportation to compensate for such physical handicaps as cardiac, cerebral palsy, or other physical handicaps including inadequate *speech,* hearing and vision, which makes them

HeinOnline -- 1967 vol. I 296 1967

unable to profit from the normal education processes without some special provision. Nothing herein shall be construed to interfere with the purpose and function of the school for the deaf and blind in Great Falls.

Special education programs—purpose.

(2) The board of trustees responsible for the operation of any public school may establish special education programs for educable mentally retarded children and physically handicapped children under the age of six (6) years when the superintendent of public instruction has determined that such programs will

(a) enable a child to achieve levels of competence that will enable him to profit from the general educational program of the public schools when he could not so profit without a special education program.

(b) permit the conservation or early acquisition of skills which will tend to provide the child with an equal opportunity to take his place with normal children in the general educational program of the public schools, or

(c) provide other demonstrated educational advantages which will materially benefit the child.

Reimbursement eligibility.

All special education programs established for mentally retarded or physically handicapped children under the age of six (6) years approved by the state superintendent of public instruction shall be eligible for reimbursements on the part of the state as provided in section 75-5003, R.C.M. 1947, and for transportation aid as provided in section 75-3409, R.C.M. 1947."

Approved: February 28, 1967.

CHAPTER 165

An Act Requiring the Fish and Game Commission to Print Tagging Instructions and Penalty for Hunting on Private Property Without Permission of Landowner on the Back of All Big Game Licenses.

Be it enacted by the Legislative Assembly of the State of Montana:

Big game licenses to include.

Section 1. The fish and game commission shall include the following tagging and penalty information printed on the back of all big game licenses issued by the commission:

HeinOnline -- 1967 vol. I 297 1967

(1) Sign your name.

(2) Write your home address.

(3) Write your county where animal was killed.

(4) Cut out day and month of kill; tags detached before kill are invalid.

(5) Attach tag to animal carcass.

(6) Unless you have permission, it is a misdemeanor, punishable by fine or imprisonment or both to hunt on the enclosed land of another or to injure or destroy any fence or other enclosure for the purpose of entering on the land of another.

Approved: February 28, 1967.

CHAPTER 166

An Act Amending Section 59-514, R.C.M. 1947, to Provide That School District Officers May Destroy Worthless Records Upon the Order of the Board of Trustees.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 59-514, R.C.M. 1947, is amended to read as follows:

Destruction of old county records.

"59-514. **Destruction of old county records may be ordered by commissioners with examiner's approval**—*destruction of old school district records may be ordered by trustees with examiner's approval.*

(1) Any county officer may destroy old worthless reports, papers or records in his office that have served their purpose and that are substantiated by permanent records, upon the order of the board of county commissioners and with the approval of the state examiner.

School reports.

(2) A school officer may destroy old worthless reports, papers or records in his office that have served their purpose and that are substantiated by permanent records, upon the order of the board of trustees and with the approval of the state examiner."

Approved: February 28, 1967.

HeinOnline -- 1967 vol. I 298 1967

CHAPTER 167

An Act to Amend Section 93-7712, R.C.M. 1947, Relating to the Taking and Use of Depositions in Justice Courts.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 93-7712, R.C.M. 1947, is amended to read as follows: Amending clause.

"Section 93-7712. **Depositions—how taken.** Depositions to be used in justices' courts shall be taken as provided *in rules 26 and 28 to 32, inclusive of the Montana Rules of Civil Procedure.*" Depositions.

Approved: February 28, 1967.

CHAPTER 168

An Act Designating the Pleadings to Be Allowed in Justice Court and Designating the Form Thereof.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. In justice court there shall be a complaint and answer; and there shall be a reply to a counterclaim denominated as such; and an answer to a cross claim; a third party complaint, if a person who is not an original party is brought into the action; and there shall be a third party answer, if a third party complaint is served. No other pleading shall be allowed, except that the court may order a reply to an answer or a third party answer. Justice court—pleadings.

Section 2. Demurrers, pleas and exceptions for insufficiency of a pleading shall not be used.

Section 3. All acts and parts of acts in conflict herewith are hereby repealed. Repealing clause.

Approved: February 28, 1967.

CHAPTER 169

An Act Specifying a Penalty if a Person Knowingly Procures or Assists in the Production, Procurement, or Distribution of Any Document Falsely Designating the Age or Identity of Any Person.

HeinOnline -- 1967 vol. I 299 1967

Be it enacted by the Legislative Assembly of the State of Montana:

Violation to procure false document relating to age of person.

Section 1. Any person who knowingly procures or assists in the production, procurement, or distribution of any document falsely designating the age or identity of any person shall be guilty of a misdemeanor.

Approved: February 28, 1967.

CHAPTER 170

An Act to Amend Section 82-1516, R.C.M. 1947, to Provide a Time Limit Within Which Actions, as Provided in the Section, May Be Brought Against the State Board of Hail Insurance.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 82-1516, R.C.M. 1947, is amended to read as follows:

Appointment of appraisers in dissatisfaction with official adjustment.

"82-1516. **Appointment of appraisers in case of dissatisfaction with official adjustment.**

(1) In case the party that has sustained the loss is dissatisfied with and refuses to accept the adjustment made by the official appraiser then he shall have the right to appeal to the state board of hail insurance, provided however, he shall make such appeal by registered mail within ten (10) days after receiving the adjustment offer of the state board in writing. Also it is further provided that the state board of hail insurance may require the posting of a cash bond of ten dollars ($10) with the request for reappraisal of the first adjustment. In cases where the board requires the posting of the ten dollar ($10) bond, the board may retain it if no increase is allowed. If an increase is obtained, the board will return the bond to the claimant. In case the adjuster who makes the second appraisal fails to secure an agreement the claimant may at his option submit the matter to arbitration as herein provided or sue the state board of hail insurance in the district court of the county where the loss occurred *within ninety (90) days from the date of receipt of written notice of the second appraisal.* Such actions shall be trials de novo and the Montana Rules of Civil Procedure shall apply. If the claimant elects to sub-

Bond.

Legal proceedings.

HeinOnline -- 1967 vol. I 300 1967

mit the matter to arbitration he shall then appoint one disinterested person as appraiser, and the official appraiser shall appoint another person as appraiser, and the two shall select a third disinterested person and the three shall then proceed to adjust the loss in the same manner as specified in section 82-1515 and the judgment of the majority shall be the judgment of said appraisers and shall be binding upon both parties as the final determination of said loss; provided, however, that if the insured does not recover a greater sum than allowed by the official appraiser in the first instance, he shall pay the expenses of the said three appraisers and their witnesses in making said adjustment, but if he is awarded a larger sum then the same shall be paid by the state board of hail insurance.

Expense of appraisers.

(2) If the insured shall be required to pay the expenses of such reappraisement as above provided, the state board of hail insurance is hereby authorized to deduct the amount of such expenses from the amount allowed said insured before making settlement for said loss.

Expenses.

Provided, also, that where any claimant demands arbitration he shall, if required by the board, furnish a cash bond to the state board of hail insurance in the sum of twenty-five dollars ($25) which shall accompany his application. If there is not sufficient allowance made to any claimant after arbitration to cover the cost of arbitration without the use of the twenty-five dollars ($25) bond, then the state board may use a part or all of said cash bond. In cases where the claimant secures an increase the bond shall be promptly returned to the claimant.

Bond.

(3) The state board of hail insurance shall examine all reports of appraisers and verify the same, and adjust all losses, and for such purposes may order hearings, subpoena witnesses and conduct examinations and do all things necessary to secure a fair and impartial appraisement of losses by hail.''

Appraisal reports.

Approved: February 28, 1967.

CHAPTER 171

An Act to Provide for the Certification and Regulation of Intrastate Air Carriers by the State Aeronautics Commission.

HeinOnline -- 1967 vol. I 301 1967

Be it enacted by the Legislative Assembly of the State of Montana:

Definitions.

Section 1. (1) Unless the context otherwise requires, the definitions in chapter 1 of title 1, R.C.M. 1947, shall govern the construction of this act.

"Air carrier."

(2) As used in this act, "air carrier" means a person or corporation owning, controlling, operating, or managing aircraft as a scheduled common carrier of passengers or freight for compensation within this state.

"Commission."

(3) As used in this act, "commission" means the state aeronautics commission.

Exclusions.

(4) The provisions of this act do not apply to common carriers of passengers or freight by aircraft who operate within this state pursuant to the provisions of a current certificate of public convenience and necessity issued by the federal government.

Federal authority.

(5) This state recognizes the authority of the federal government to regulate and control safety factors in the operation of aircraft and the use of air space.

Operation by air carrier.

Section 2. (1) No air carrier shall operate aircraft except in accordance with the provisions of this act.

Power of commission.

(2) The commission may:

(a) Supervise and regulate every air carrier in those matters affecting ticketing, flight reservations, passenger baggage, advertising, passenger convenience and comfort, and transportation of freight.

(b) After notice to all interested parties and the public, and after hearing, fix the rates, fares, charges, classifications, and rules of each such carrier.

(c) Regulate the accounts of each such carrier, and require the filing of annual and other reports and of other data by such carriers.

(d) By general order or otherwise, prescribe rules applicable to any and all air carriers. The commission, in the exercise of the jurisdiction conferred upon it by this act, may make orders and prescribe rules affecting air carriers, notwithstanding the provisions of any ordinance or permit of any town, city, city and county, or county, and in case of conflict between any such order or rule and any such ordinance or permit, the order or rule of the commission shall prevail.

HeinOnline -- 1967 vol. I 302 1967

Certificate of public convenience.

(3) No air carrier shall engage in any operation in this state without first having obtained from the commission a certificate of public convenience and necessity authorizing such operation.

Application.

(4) An applicant shall submit his written verified application to the commission. The application shall be in such form and contain such information and be accompanied by proof of service upon all air carriers with which the proposed service is likely to compete and such other interested parties as the commission requires.

Elements to be considered.

In awarding certificates of public convenience and necessity pursuant to the foregoing subsection, the commission shall take into consideration, among other things, the business experience of the particular air carrier in the field of air operations, the financial stability of the carrier, the insurance coverage of the carrier, the type of aircraft which the carrier would employ, proposed routes and minimum schedules to be established, whether the carrier could economically give adequate service to the communities involved, the need for the service, and any other factors which may affect the public interest.

Fee.

(5) Each application for a certificate of public convenience and necessity made under the provisions of this act shall be accompanied by a fee of one hundred fifty dollars ($150).

Notice and hearings.

The commission may, after notice to the interested parties and the public, and after hearing, issue the certificate as prayed for. The commission may, after like notice and hearing, refuse to issue the certificate. The commission may, after like notice and hearing, issue the certificate for the partial exercise only of the privilege sought. The commission may attach to the exercise of the rights granted by the certificate such terms and conditions as, in its judgment, the public convenience and necessity require.

Filing fee.

(6) A fee of one hundred fifty dollars ($150) shall be paid to the commission for filing each application to sell, mortgage, lease, assign, transfer, or otherwise encumber any certificate.

Approval.

The commission may, after notice and hearing, approve the application or refuse to approve it, and may approve

HeinOnline -- 1967 vol. I 303 1967

it under such terms and conditions as, in its judgment, the public convenience and necessity require.

Issuance of certificate without hearing.

(7) Notwithstanding any other provision in this act, the commission shall issue a certificate of public convenience and necessity to any air carrier actually operating in good faith and doing business as of January 1, 1967, without a hearing, if such carrier meets the conditions and requirements specified in this act, provided the application therefor shall have been filed with the commission on or before January 2, 1968. The commission may issue a temporary certificate of public convenience and necessity pending action on the application, and the air carrier may operate until its application is either granted or denied by the commission.

No consolidation of certificates.

(8) Without the express approval of the commission, no certificate of public convenience and necessity issued to one air carrier under the provisions of this act shall be combined, united, or consolidated with another such certificate issued to or possessed by another such carrier, so as to permit through service between any point or points served by one carrier on the one hand, and any point or points served by another such carrier, on the other hand.

Through rates and joint rates.

(9) Any one air carrier may, with written approval from the commission having been first obtained, and after notice to all interested parties and the public, and after hearing, establish through rates and joint rates, charges and classifications between any and all points served by it under any and all certificates or operative rights issued to or possessed by it.

Suspension of certificates.

(10) The commission may at any time suspend the certificate of any air carrier for failure to comply with the insurance regulations established pursuant to subsection 12 of this section. For any other good cause, the commission may at any time upon notice to the holder of any certificate and opportunity to be heard, suspend, revoke, alter or amend any such certificate.

Complaint.

(11) When a complaint has been filed with the commission alleging that any aircraft is being operated without a certificate of public convenience and necessity, as required by this act, or when the commission has reason to believe that this act is being violated, the commission shall investigate such operations and may, after a hear-

HeinOnline -- 1967 vol. I 304 1967

ing, make its order requiring the operator of the aircraft to cease and desist from any operation in violation of this act. The commission shall enforce compliance with such order under the powers vested in the commission by law, including, but not limited to, the provisions of chapters 1 through 8 of title 1 of R.C.M. 1947.

Violation.

(12) The commission may, upon its motion, or upon application of any interested party, and after hearing, require any air carrier to procure and maintain insurance in such amounts and upon such terms as the commission may determine.

Insurance.

(13) The commission shall have the power to suspend and enforce the suspension of certificates of public convenience and necessity, issued by the commission, upon a finding of any agency of the federal government that an air carrier is operating in violation of any federal safety law or regulation.

Commission power to suspend certificates.

(14) No air carrier shall discontinue operations to any point without authority of the commission, unless such operations are unprofitable. Unprofitable operations may be discontinued upon thirty (30) days' notice to the commission, and to such other persons as the commission may require, unless within such thirty-day period the commission, after hearing, makes a finding that such operation is not unprofitable and orders its continuance.

Discontinuance of operations.

(15) The district court shall have jurisdiction to enforce, by proper decree, injunction or order, the rates, classifications, rulings, orders, and regulations made or established by the commission. The proceeding therefor shall be by equitable action in the name of the state, and shall be instituted by the attorney general or county attorney, whenever advised by the commission that any air carrier is violating or refusing to comply with any rule, order, rate, classification, or regulation made by the commission and applicable to such air carrier. Such proceedings shall have precedence over all other business in such courts, except criminal business.

Jurisdiction of district courts.

Priority.

In any action the burden of proof shall rest upon the defendant, who must show by clear and satisfactory evidence that the rule, order, regulation, rate, or classification involved is unreasonable and unjust as to them. If, in such action, it be the decision of the court that the rule, regulation, order, rate, or classification is not un-

Burden of proof.

HeinOnline -- 1967 vol. I 305 1967

reasonable or unjust, and that in refusing compliance therewith the air carrier is thereby failing or omitting the performance of any duty, debt, or obligation, the court shall decree a mandatory and perpetual injunction compelling obedience to and compliance with the rule, regulation, order, rate or classification by the defendant, and its officers, agents, servants, and employees, and may grant such other relief as may be deemed just and proper. Any violation of such decree shall render the defendant and officer, agent, servant or servants, or employee of the defendant, who is in any manner instrumental in such violation, guilty of contempt, and shall be punishable by a fine not exceeding one thousand dollars ($1000) for each offense, or by imprisonment of the person guilty of contempt until he shall sufficiently purge himself therefrom, and such decree shall continue and remain in effect and be in force until the rule, regulation, order, rate, or classification shall be modified or vacated by the commission. An appeal shall lie to the supreme court from the decree in such action, and the cause shall have precedence over all other civil actions of a different nature pending in the supreme court.

Injunction —relief.

Violation of court order —penalty.

Appeals.

Action by air carrier.

(16) Any air carrier may bring an action in the district court of the county where the principal office or place of business is situated, or in any county where any such classification, rate, toll, charge, regulation, or order of the commission is applicable, against the said commission as defendant, to determine whether or not any such classification, rate, toll, charge, regulation, or order made, fixed, or established by the commission under the provisions of this act is just and reasonable; provided, that until the final decision in any such action the classification, rate, toll, charge, regulation, or order of the commission affecting rates or charges shall be deemed to be final and conclusive; and provided further, that in any action, hearing, or proceeding in any court, the classification, rate, tolls, charges, regulations, and orders made, fixed, and established by said commission shall prima facie be deemed to be just, reasonable, and proper. All costs and expenses incurred in the hearing, trial, or appeal of any action brought under this section shall be fixed and assessed as to the court may seem just and equitable.

Costs.

HeinOnline -- 1967 vol. I 306 1967

(17) Appeals may be taken to the supreme court from the judgment of any district court in any action brought under the provisions of this act; such appeals shall have precedence over all other business, except criminal business and original proceedings in such court, and shall be heard and determined as are appeals in civil actions. Appeals.

(18) Those aircraft operators who carry passengers for hire that are commonly known as taxi or charter operators who operate on an occasional or contract basis and do not operate as common carriers between terminal points, including intermediate points, if any, are excluded from the provisions of this act. Excluded operations.

Section 3. Notice as required by section 2 of this act shall be given by publication once a week for three (3) successive weeks in a newspaper of general circulation in the county in which the hearing is to be held. Notice.

Approved: February 28, 1967.

CHAPTER 172

An Act Requiring Disability Insurance and Workmen's Compensation Policies to Provide the Insured Shall Have Full Freedom of Choice in the Selection of Any Duly Licensed Physician, Osteopath, Chiropractor, Optometrist or Chiropodist for Treatment of Illness or Injury; Providing a Like Freedom of Choice in the Selection of Pharmacists; Providing an Effective Date; and Containing a Repealing Clause.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. All policies of disability insurance, including individual, group and blanket policies, and all policies insuring the payment of compensation under the Workmen's Compensation Act shall provide the insured shall have full freedom of choice in the selection of any duly licensed physician, osteopath, chiropractor, optometrist or chiropodist for treatment of any illness or injury within the scope and limitations of his practice. Whenever such policies insure against the expense of drugs, the insured shall have full freedom of choice in the selection of any duly licensed and registered pharmacist. Insurance to guarantee freedom of choice of treating party.

HeinOnline -- 1967 vol. I 307 1967

Limiting clause.

Section 2. Nothing in this act shall be construed as enlarging the scope and limitations of practice of any of the licensed professions enumerated in section 1; nor shall this act be construed as amending, altering, or repealing any statutes relating to the licensing or use of hospitals.

Effective immediately.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Repealing clause.

Section 4. All acts and parts of acts in conflict herewith are hereby repealed.

Approved: February 28, 1967.

CHAPTER 173

An Act to Amend Section 31-104, R.C.M. 1947, Relating to the Term, Salary, Supervisory Power and Resident Requirement of the Highway Patrol Supervisor; Substituting the Name "Chief" for Supervisor; Designating the Rank of Such Position as Colonel; and Authorizing Board to Establish Salary Within Legislative Appropriation.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 31-104, R.C.M. 1947, is amended to read as follows:

Chief—compensation.

"31-104. *Chief—appointment—tenure of office—*__salary—supervisory power—resident requirement.__ The board shall select a highway patrol *chief* who shall *have the rank of colonel and shall* hold his office until his appointment has terminated for cause, as hereinafter set forth, and shall receive a salary *fixed by the board with approval of the Board of Examiners within the limits of the legislative appropriation for such purpose,* and necessary traveling expenses. The *chief* shall have direct control and supervision of all patrolmen, subject to the approval of the Montana highway patrol board. The person named as *chief* shall have been a continuous resident of Montana for at least five (5) years. The *chief,* with the approval of the board and within the limits of any appropriation made available for such purposes, shall:

Powers.

Resident.

Duties.

HeinOnline -- 1967 vol. I 308 1967

1. Designate the authority and responsibility in each such rank, grade and position;

2. Formulate standards, policies and qualifications in the selection of recruit patrolmen;

3. Prescribe the official uniform of the Montana highway patrol;

4. Station employees in such localities as he shall deem advisable for the enforcement of the traffic laws of this state;

5. Charge against each employee the value of property of the state, lost or destroyed through the carelessness or neglect of such employee;

6. Discharge, demote, or temporarily suspend after hearing as provided in section 31-105, any *patrolman* of the department;

7. Have purchased, or otherwise acquired, by the purchasing department of the state, motor equipment and all other equipment and commodities deemed by him essential to the efficient operation of the Montana highway patrol."

Approved: February 28, 1967.

CHAPTER 174

An Act to Amend Section 25-508, of the Revised Codes of Montana, 1947, Relating to Traveling Expenses of Officers Attending Conventions.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 25-508, R.C.M. 1947, be and is hereby amended to read as follows: Amending clause.

"25-508. **Traveling expenses of officers attending conventions.** (1) Hereafter no state, county, city or school district officer or employee of the state or of any county or city, or of any school district, shall receive payment from any public funds for traveling expenses or other expenses of any sort or kind for attendance upon any convention, meeting, or other gathering of public officers save and except for attendance upon such convention, meeting or other gatherings as said officer or employee Traveling expenses of officers attending conventions.

HeinOnline -- 1967 vol. I 309 1967

may by virtue of his office find it necessary to attend, and provided further, that the board of trustees of any county or district high school or of any school district may by resolution adopted by a majority of the entire board make their district a member of any state association of school districts or school district trustees, or any other strictly educational association and authorize the payment of dues to such association, and the necessary traveling expenses of employees, or members of said board, to attend meetings of such association, or other meetings called for the express purpose of considering educational matters.

County officers —actual transportation expenses.

(2) Provided, further, three (3) members of the board of county commissioners may be allowed actual transportation expenses and per diem for attendance upon any general meeting of county commissioners or assessors held within the state not oftener than once a year and the proportionate expenses and charges against each county as a member of such association shall also be paid; provided also that county attorneys, sheriffs, *and justices of the peace* are hereby authorized to attend their respective meetings or conventions held within the state and are allowed actual traveling expenses not oftener than once a year for attending same.

Membership fees and dues.

(3) Provided, further, that nothing herein shall be construed to prevent any city or town council, commission or other governing body from paying membership fees and dues in any organization of city and town officials whose purpose is improvement of laws relating to city and town government and their better and more economical administration, and the necessary expense of any regular officer or employee of such city or town in attending any convention or meeting of such organization upon the direction of such council, commission, or other governing body by order upon its minutes stating that the public interest requires such attendance; such payment of membership fees, dues and/or expense to be made from such fund of the city or town as the council, commission or other governing body shall direct by such order, upon claim presented, audited and allowed as are other claims against such city or town.

County clerk and recorders.

(4) Provided, further, that all county clerk and recorders of the various counties throughout the state of Montana shall be allowed actual transportation expenses and per diem allowance for attendance upon any general

HeinOnline -- 1967 vol. I 310 1967

meeting of the Montana association of county clerk and recorders held within the state not oftener than once a year, and the proportionate expenses and charges against each county as a member of such association shall be paid by such county."

Section 2. All acts and parts of acts in conflict herewith are hereby repealed. Repealing clause.

Approved: February 28, 1967.

CHAPTER 175

An Act to Amend Section 32-21-105, R.C.M. 1947, Relating to Persons Operating Motorcycles on Public Streets or Highways; Restricting Number of Passengers; Prohibiting Unsafe Acts or Interference With Other Traffic.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That section 32-21-105, R.C.M. 1947, is amended to read as follows: Amending clause.

"32-21-105. **Riding on motorcycles.** *(1)* A person operating a motorcycle *on public streets or highways* shall ride only upon the permanent and regular seat attached thereto, and such operator shall not carry any other person nor shall any other person ride on a motorcycle unless such motorcycle is designed to carry more than one (1) person, in which event a passenger may ride upon the permanent and regular seat if designed for two (2) persons, or upon another seat firmly attached to the rear or side of the operator. Motorcycles—limitations of operation on public streets.

(2) No passenger shall be carried in a position that will interfere with the operation of the motorcycle or the view of the operator.

(3) No person operating a motorcycle shall carry any packages, bundles, or articles which would interfere with the operation of said vehicle in a safe and prudent manner.

(4) 'Side saddle' riding on a motorcycle is prohibited.

(5) Motorcycles are to be operated with lights on at all times when operated on any public highway or street.

HeinOnline -- 1967 vol. I 311 1967

(6) Not more than two (2) motorcycles shall be operated side by side in a single traffic lane.

(7) All motor vehicles including motorcycles, are entitled to the full use of a traffic lane, and no vehicle shall be driven or operated in such a manner so as to deprive any other vehicle of the full use of a traffic lane, except that motorcycles may, with the consent of both drivers, be operated not more than two (2) abreast in a single traffic lane.

(8) Every person riding a motorcycle upon a roadway shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a motor vehicle except as to those provisions which, by their nature, can have no application."

Approved: February 28, 1967.

CHAPTER 176

An Act Creating the Position of Criminal Investigator Within the Department of the Attorney General and Defining the Duties of Said Position.

Be it enacted by the Legislative Assembly of the State of Montana:

Position of criminal investigator.

Section 1. (1) There is hereby created a permanent position of criminal investigator within the office of the state attorney general.

Appointment.

(2) The attorney general shall appoint the investigator and other necessary assisting personnel and fix their compensation.

Qualification.

(3) The investigator shall be a person qualified by experience, training and high professional competence in criminal investigation. Qualifications shall be equal to those of similarly assigned federal bureau of investigation personnel.

Section 2. As used in this act:

"Investigator."

"Investigator" means the person appointed to the position of criminal investigator within the attorney general's office.

Power and duties.

Section 3. The investigator shall have the power and duty to:

HeinOnline -- 1967 vol. I 312 1967

(1) Assist city, county, state and federal law enforcement agencies at their request by providing expert and immediate aid in investigation and solution of felonies committed in the state;

(2) Assist various law enforcement schools held in the state for law officers when requested;

(3) Cooperate with the bureau of criminal identification and investigation.

Limited access to files.

Section 4. A person with a known criminal record shall not be permitted access to the files of the investigator, nor shall anyone else, without the order of a district judge or a supreme court justice.

Retirement.

Section 5. The investigator and assisting personnel shall be covered by the public employees' retirement system.

Cooperation by state agencies.

Section 6. All state departments and agencies shall cooperate with the investigator in providing transportation, educational and laboratory facilities for his use when so requested.

Office location.

Section 7. The office of the criminal investigator shall be located in Deer Lodge, Montana.

Approved: February 28, 1967.

CHAPTER 177

An Act for the Establishment of a State Highway Traffic Safety Program, Setting Forth Definitions; Establishing Administration Thereof, Authorizing Political Subdivision Participation, Permitting the Acceptance of Federal Funds, the Collection and Expenditure of Monies; Providing for Programs for Driver Education Training and Certification of Instructors, Regulation of Schools Including Licensing Thereof; Adult Driver Training and Retraining Programs; Research, Development and Procurement of Practice Driving Facilities, Simulators and Teaching Aids, Licensing, Revocation and Regulation of Drivers and Operators of All Motor Vehicles.

HeinOnline -- 1967 vol. I 313 1967

Be it enacted by the Legislative Assembly of the State of Montana:

Purpose of act.

Section 1. **Purpose of act.** For the purpose of promoting the public safety, health and welfare, and to reduce traffic deaths, injuries and property losses resulting from traffic accidents, it is hereby declared to be in the public interest to establish a highway traffic safety program; provide for the administration thereof; implement, modernize and improve the following traffic safety activities: driver performance, including, but not limited to, driver education, driver testing to determine proficiency to operate motor vehicles; driver examinations, both physical and mental; driver licensing; pedestrian performance; establish an effective accident record system, including traffic accident investigation to determine the probable cause of accidents, injuries and deaths; to improve and establish a system of vehicle registration, vehicle operation and vehicle inspection; to assist in the improving of highway design and maintenance, including lighting, markings and surface treatment to improve safety thereof; establish an effective traffic control system; promote the adoption of a uniform vehicle code and law; provide for surveillance of traffic for detection and correction of high or potentially high accident locations; establish emergency services, including, but not limited to, communications, medical or mechanical assistance, and ambulance service for injured persons; establish an effective compilation and storage program of reports and records through electronic data processing.

Definitions. "Governor."

Section 2. **Definitions.** (1) As used in this act, "governor" shall mean the governor of the state of Montana.

"Highway traffic safety program."

(2) "Highway traffic safety program" means a program designed to reduce traffic accidents and deaths, injuries to persons and damage to property. Such program shall be in accordance with uniform standards as are or may be established by the secretary of commerce of the United States under title 23, United States Code Annotated, as amended. Nothing herein shall restrict or prohibit the establishment of standards which enlarge or implement the federal standards.

"Political subdivisions."

(3) "Political subdivisions" shall mean every county, incorporated city or town and school district within the boundaries of the state.

HeinOnline -- 1967 vol. I 314 1967

(4) "Board" shall mean the Montana highway traffic safety board. "Board."

Section 3. **Montana highway traffic safety board.** There is hereby created a Montana highway traffic safety board. The board shall be appointed by the governor. Creation of safety board.

Section 4. **Organization.** The Montana highway traffic safety board shall meet once each month at the state capitol. It shall provide for office space, clerical help and such other personnel as may be necessary to carry out the intent of this act. Organization.

Section 5. **Duties.** The governor shall be responsible for the administration of the highway traffic safety program. The governor, in addition to other duties and responsibilities conferred upon him by the constitution and laws of this state, is hereby empowered to contract and to do all other things necessary to secure the full benefits available to this state under the Federal Highway Safety Act of 1966, and in so doing, to cooperate with federal and state agencies, private and public organizations, and with individuals, to effectuate the purposes of that enactment, and any and all subsequent amendments thereto. For purposes of participation in the Federal Highway Safety Act of 1966, the governor shall designate the superintendent of public instruction as the state agency responsible for all aspects of federally-assisted driver education and safety programs in the public schools, including the approval of such programs, certification of teachers, and the acceptance, allocation and expenditure of funds for driver education in accordance with applicable federal laws and regulations. Nothing in this act shall interfere with the provisions of chapter 51 or chapter 53 of title 75, Revised Codes of Montana, 1947. Duties. Federal highway safety act of 1966 —participation.

It shall be the duty of the board to advise and assist the governor in all matters of highway safety, and to establish comprehensive training programs, including, but not limited to, establishment and regulation of driver training schools and certification of said schools and instructors; establishment of adult training and retraining programs; to develop and procure practice driving facilities, simulators and other teaching aids for school and driver training use; to establish a continuing and adequate research program designed to determine the causes of accidents and effect a program of preven- Duty of board.

HeinOnline -- 1967 vol. I 315 1967

tion; to establish a uniform system of driver licensing, including, but not limited to, mental and physical standards, and to prescribe and establish safety regulations for motor vehicles and operators.

Funds.

Section 6. **Funds.** The governor and the highway traffic safety board is hereby authorized to enter into contracts with the federal government to secure maximum federal appropriation. At least forty percent (40%) of all federal funds received by the state shall be expended by the political subdivisions of said state in carrying out local approved highway traffic safety programs. Except as provided in this act, the governor is authorized to accept all gifts, money and funds to implement the purposes of this act; the expenditure of funds, exclusive of the federal appropriation, shall be maintained at a level which shall not fall below the average level of such expenditures for the last two (2) full fiscal years preceding July 1, 1966, as determined by the expenditures of state and political subdivisions.

Local programs.

Section 7. **Local programs.** Except as provided in this act, all highway traffic safety programs of political subdivisions must be approved by the governor and no funds shall be expended unless such approval is obtained. All local and state officials are hereby instructed and directed to cooperate with the governor and highway traffic safety board to accomplish the purposes of this act. The governor is hereby empowered to administer the highway traffic safety programs of this state and those of its political subdivisions, all in accordance with this act and federal rules and regulations in the implementation thereof.

Severability clause.

Section 8. **Severability clause.** The provisions of this act shall be severable; and if any of its sections, provisions, exceptions, sentences, clauses, phrases or parts be held unconstitutional or void, the remainder of this act shall continue in full force and effect.

Repealing clause.

Section 9. **Repealing clause.** All parts of laws or laws in conflict herewith are hereby repealed.

Approved: February 28, 1967.

HeinOnline -- 1967 vol. I 316 1967

CHAPTER 178

An Act Amending Section 32-2805, R.C.M. 1947, to Increase Payments to County Surveyors and Members of County Boards of Commissioners From Fifteen Dollars ($15) to Twenty Dollars ($20) Per Day for Inspecting Roads and Construction Work.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 32-2805, R.C.M. 1947, is amended to read as follows: Amending clause.

"32-2805. **Inspection of roads and construction work—compensation.** Inspection—compensation.

(1) The board may direct the county surveyor or some member or members of the board to inspect the condition of any road. It may direct such persons to inspect any work, being done under contract or otherwise, which is under the direction, supervision, or control of the board. Such inspections may be made before any work is commenced, during its progress, or after completion and before payment.

(2) The person or persons making such inspections shall receive the sum of *twenty dollars ($20)* per day and actual expenses. The claims shall be audited and allowed in the same manner as other claims against the county. $20.00 per day.

(3) Proper minute entries of such inspections must be made by the surveyor or board member or members at the next regular meeting of the board." Minute entries.

Approved: February 28, 1967.

CHAPTER 179

An Act to Provide That Vacancies in Either House of the Legislative Assembly Shall Be Filled by the Board or Boards of County Commissioners of the County or Counties Concerned.

WHEREAS, Section 45, Article V of the Montana Constitution, which provides for the filling of vacancies in the legislative assembly has been repealed by an amendment to the Montana Constitution adopted by the electorate at the November 8, 1966 general election.

HeinOnline -- 1967 vol. I 317 1967

Be it enacted by the Legislative Assembly of the State of Montana:

Vacancies in legislative assembly shall be filled by commissioners.

Section 1. When a vacancy occurs, in either house of the legislative assembly, the vacancy shall be filled by appointment by the board of county commissioners, or, in the event of a multi-county district, the boards of county commissioners comprising the district sitting as one appointing board. The chairman of the board of county commissioners of the county in which the person resided whose vacancy is to be filled shall call a meeting for the purpose of appointing the member of the legislative assembly, and he shall act as the presiding officer of the meeting.

Section 2. In the event that a decision cannot be made by the appointing board because of failure of any candidate to receive a majority of the votes, the final decision may be made by lot from a number of candidates, not exceeding the number of counties comprising the district, in accordance with rules of selection adopted by the appointing board.

"Vacancy."

Section 3. For the purposes of this act, "vacancy" or "vacancies" has the same meaning as prescribed in section 59-602, R.C.M. 1947.

Approved: February 28, 1967.

CHAPTER 180

An Act Relating to Validation of Judicial Sales Prior to January 1, 1967, of Real Property and Curing Defects or Irregularities in the Issuance of Execution, Manner of Making or Conducting the Sale, or in the Recitals or References in Sheriffs' Deeds.

Be it enacted by the Legislative Assembly of the State of Montana:

Validation of judicial sales of real property prior to January 1, 1967.

Section 1. All judicial sales of real property prior to January 1, 1967, provided no action is now pending to set such sale aside, where made in this state on proceedings to satisfy valid judgments or decrees of any court and the moneys bidden thereon paid to the officer making such sale, shall be valid and sufficient in law to sustain a sheriff's deed based on such sale, and when no such deed has been executed, shall entitle such purchaser to

HeinOnline -- 1967 vol. I 318 1967

such deed; and such deed, if now or when executed, shall be sufficient to convey all the title of judgment debtor at the time of such sale in the premises so sold to the purchaser at said sale, and all defects or irregularities in the issuance of execution, or the manner of making or conducting the sale, or in the recitals or references in such deed, shall be disregarded and such sale shall not be invalidated by reason of any such defect or irregularity.

Approved: February 28, 1967.

CHAPTER 181

An Act Validating Certain Instruments Affecting Real Property and Which Were Erroneously Executed or Acknowledged Prior to January 1, 1967; Imparting Notice by Recording Thereof; and Providing That Duly Certified Copies Thereof May Be Read in Evidence With Like Effect as Copies of an Instrument Duly Acknowledged and Recorded.

Be it enacted by the Legislative Assembly of the State of Montana:

Validation of instruments affecting real property, recorded prior to January 1, 1967.

Section 1. Any instrument affecting real property, provided no action is now pending to set such instrument aside, which was, previous to January 1, 1967, copied into the proper book kept in the office of the county clerk and recorder, shall be deemed to impart, after that date, notice of its contents to subsequent purchasers and encumbrancers, notwithstanding any defect, omission, or informality in the execution of the instrument or in the certificate of acknowledgment thereof, or the absence of any such certificate; and all such instruments heretofore acknowledged by the vice-president and assistant secretary of any corporation, or by either of them, or other person duly authorized by resolution by such corporation executing the same on behalf of the corporation, and recorded, shall be valid and shall have the same force and effect as though acknowledged by the president or secretary; but nothing herein shall be deemed to affect the rights of purchasers or encumbrancers previous to that date. Duly certified copies of the record of any such instrument may be read in evidence, with like effect as copies of an instrument duly acknowledged and recorded.

Approved: February 28, 1967.

HeinOnline -- 1967 vol. I 319 1967

CHAPTER 182

An Act Validating Deeds and Conveyances in Sales of Land and Personal Property Made by Trustees, Executors, Administrators and Guardians Prior to January 1, 1967, Curing Defects and Irregularities in Such Sales.

Be it enacted by the Legislative Assembly of the State of Montana:

Validation of conveyances of land and personal property prior to January 1, 1967.

Section 1. All sales, provided no action is now pending to set aside such deed or conveyance, by trustees, executors, administrators and guardians which previous to January 1, 1967, were made to purchasers for a valuable consideration, which consideration has been paid by such purchasers in good faith, and such sales shall not have been set aside by the district or probate court having jurisdiction thereof, shall be sufficient to sustain a trustee's, executor's, administrator's or guardian's deed or conveyance to such purchaser, and, in case such deed or conveyance shall not have been given, shall entitle such purchaser to such deed or conveyance; and such deed or conveyance, if now executed or when executed, shall be sufficient to convey to such purchaser all the title that such beneficiary, decedent or ward had in said real or personal property; and all irregularities in obtaining the order of the court for such sale, and all irregularities or defects in making or conducting such sale by said trustee, executor, administrator or guardian, shall be disregarded, and such sale shall not be invalidated by reason of any such defect or irregularity.

Approved: February 28, 1967.

CHAPTER 183

An Act Validating Deeds and Conveyances Made Prior to January 1, 1967 Which Are Defective in Execution or Acknowledgment, Providing That Such Instruments Shall Be Conclusive Evidence of Title Against the Grantors.

Be it enacted by the Legislative Assembly of the State of Montana:

Validation of conveyances of real property prior to January 1, 1967.

Section 1. All deeds to real property executed prior to January 1, 1967 in this state, or any state or territory of the United States, provided no action is now pending to set aside any such deed, which shall have been signed by

HeinOnline -- 1967 vol. I 320 1967

the grantors in due form, shall be sufficient in law to convey the legal title to the premises therein described from the grantors to the grantees, without any other execution or acknowledgment or witnesses thereto whatever; and such deeds so executed shall be received in evidence in all courts in this state, and be conclusive evidence of the title to the lands therein described against the grantors, their heirs and assigns.

Approved: February 28, 1967.

CHAPTER 184

An Act to Validate Records of Court Proceedings Prior to January 1, 1967, Containing Defects, Omissions, Informalities or irregularities in Obtaining a Judgment or Decree Affecting Real Property, in Which Time for Appeal Has Expired; Providing That Duly Cerified Copies of Such Judgment or Decree May Be Read in Evidence With the Same Effect as Judgments or Decrees Duly and Regularly Obtained, Recorded and Entered.

Be it enacted by the Legislative Assembly of the State of Montana:

Validation of records of court proceedings prior to January 1, 1967.

Section 1. Any judgment or decree of any court of this state affecting real property, provided that no action is now pending to set aside any such judgment or decree, which was, prior to January 1, 1967, copied into the proper book, kept in the office of the clerk of the district court, and certified copy of which judgment or decree was, previous to the date this act takes effect, recorded in the proper book, kept in the office of the county clerk and recorder, shall be deemed to impart, after that date, notice of its contents to subsequent purchasers and encumbrancers, notwithstanding any defect, omission, informality or irregularity in any of the court proceedings in the action in which such judgment or decree was entered and obtained, if time for appeal in the case has expired, and such judgment or decree shall not be deemed invalidated by reason of any such defect, omission, informality or irregularity; but nothing herein shall be deemed to affect the rights of purchasers or encumbrancers previous to that date. Duly certified copies of such judgment or decree, or of the record thereof, may

HeinOnline -- 1967 vol. I 321 1967

be read in evidence, with like effect as copies of a judgment or decree duly and regularly obtained and recorded and entered.

Approved: February 28, 1967.

CHAPTER 185

An Act to Amend Section 79-1202, Revised Codes of Montana, 1947, as Last Amended by Chapter 67, Laws of Montana, 1963, Relating to Investment of Funds of the State of Montana; and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 79-1202, Revised Codes of Montana, 1947, as last amended by chapter 67, Laws of Montana, 1963, be, and is hereby amended to read as follows:

Investment of state funds.

"79-1202. **Moneys to be invested according to unified plan.** 1. The state board of land commissioners is hereby authorized and required to invest the Montana trust and legacy fund subject to the provisions, regulations and limitations of sections 81-1001 to 81-1008, inclusive.

Authorization of land commissioners.

2. The state board of land commissioners is hereby authorized and required to invest in the long term investment fund the following: Moneys administered by the Montana highway patrolmen's retirement board in excess of twenty-five thousand dollars ($25,000); moneys administered by the public employees' retirement board; moneys administered by the industrial accident board; all moneys subject to investment as designated by the teachers' retirement board; moneys designated as available by the Montana fish and game commission and all other moneys designated by statute. Moneys in the long term investment fund may be invested as follows:

U. S. securities.

(a) In or upon securities which are direct obligations of the United States government; securities which are guaranteed as to principal and interest by the United States government; securities issued by instrumentalities of the United States government.

HeinOnline -- 1967 vol. I 322 1967

Bond of general obligations of state, counties and other agencies.

(b) In general obligation bonds of school districts within the state of Montana; in general obligation bonds of the several counties and cities of the state of Montana; in general obligation bonds of the state of Montana; in capitol building bonds of the state of Montana, now issued or which may hereafter be issued; in bonds issued by the federal land banks; in bonds issued by the state board of examiners to construct an unemployment compensation commission office building including the landscaping and paving around said building, upon land adjacent to the capitol buildings; in bonds or other securities which may be issued for the construction of a physical education building at the state industrial school, provided that sufficient income from fees collected under section 80-816 shall be pledged for the retirement of such bonds or other securities; in interest-bearing warrants upon the general fund of the state and in interest-bearing warrants upon the general fund, the poor fund, the road fund, the retirement fund, or upon the bridge fund of the several counties and school districts of the state of Montana; the purchase of all such investments to be subject to the discretion of the board.

U. S. agencies.

(c) In the obligation, and/or stock where stated, of the following agencies of the government of the United States of America, whether or not such obligations are guaranteed by such government;

(1) Commodity credit corporation.

(2) Federal intermediate credit banks.

(3) Federal land banks.

(4) Central bank for cooperatives.

(5) Federal home loan banks, and stock thereof.

(6) Federal national mortgage association, and stock thereof when acquired in connection with sale of mortgage loans to such association.

First mortgages on real property.

(d) In first mortgages on unencumbered real property when such mortgages are guaranteed or insured in the amount of *thirty* per centum *(30%)* or more of the loan made in the event of default by the United States government or any agency or corporate agency of the United States government and in obligations of housing authorities subject to the terms and limitations of section 35-143, *and*

HeinOnline -- 1967 vol. I 323 1967

in unencumbered real property, and in first mortgages of unencumbered real property, not exceeding seventy-five percent (75%) of the value of the property, provided, however, no more than fifty per centum (50%) of the funds in one (1) account shall be invested in such mortgages *and real property.*

Corporate obligations.

(e) In first mortgage bonds, debentures, notes and other evidences of indebtedness issued, assumed or guaranteed by any solvent and operating corporation existing under the laws of the United States of America or any state thereof which bonds, debentures, notes and other evidences of indebtedness are, at the time of such investment, within the three (3) highest quality grades for the rating of such bonds, debentures, notes and other evidences of indebtedness by any nationally recognized investment rating agency.

Equipment trust obligations.

(f) In equipment trust obligations or certificates adequately secured and evidencing an interest in transportation equipment, wholly or in part within the United States of America, which obligations or certificates carry the right to receive determined portions of rental, purchase, or other fixed obligatory payments to be made for the use or purchase of such transportation equipment, and which obligations or certificates are, at the time of such investment, within the three (3) highest quality grades for the rating of such obligations or certificates by any nationally recognized investment rating agency.

Separate funds.

All securities purchased and all cash on hand for each fund shall be kept separate in the long term investment fund and all interest collected shall be credited to the fund for which the securities were purchased.

Short term investment fund.

3. The state board of land commissioners is hereby authorized and required to invest in the short term investment fund any surplus cash in the office of the state treasurer; any money in the sinking fund, which is not required for the immediate payment of any bond principal or interest, or which cannot be used for payment and redemption of bonds outstanding because of the same not being redeemable under the option provisions contained therein; any Montana highway patrolmen's retirement moneys less the twenty-five thousand dollars ($25,000) as directed by the Montana highway patrolmen's retirement board and any other moneys designated

HeinOnline -- 1967 vol. I 324 1967

by statute to be so invested or any moneys in the custody of any officer or officers of the state, or any governing body of any city, county or school district, the investment of which moneys is requested by the officer, or officers or governing body and which moneys are subject to investment. The moneys in the short term investment fund may be invested as follows:

Investment of short term funds.

(a) The surplus cash in the office of the state treasurer may be invested in registered warrants of the state of Montana and in treasury obligations of the United States government. All warrants purchased shall bear no interest and the interest received from treasury obligations shall be credited to the general fund of the state of Montana.

(b) Any sinking fund and any other moneys may be invested in bonds of the state of Montana, bonds of the United States, in bonds issued by any agency or department of the United States, treasury obligations of the United States, and in interest-bearing warrants drawn against the general fund of the state of Montana; provided, however, that none of such moneys in the sinking fund shall be invested in bonds or securities except such as will be called in and paid at least fifteen (15) days prior to the time such moneys are required for the payment of principal and interest.

Securities accounts.

All securities purchased and all cash on hand for each account or subfund shall be kept separate in the short term investment fund and all interest collected shall be credited to the account or subfund for which the securities were purchased.

Investment counselor—compensation.

The state board of land commissioners is hereby authorized to employ, for the purpose of securing advice on retention, sale or purchase of securities, an expert on financial matters who has had a minimum of ten (10) years' experience in the investment field and there shall not be paid for such services an amount in excess of one thousand dollars ($1,000) in any one fiscal year."

Effective immediately.

Section 2. That this act shall be in full force and effect from and after its passage and approval.

Approved: February 28, 1967.

HeinOnline -- 1967 vol. I 325 1967

CHAPTER 186

An Act Amending Section 11-726, R.C.M. 1947, Relating to Salaries and Compensation of Police Judges, Providing That Same Must Be Fixed by Ordinance.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 11-726, R.C.M. 1947, is amended to read as follows:

Salaries of police judges.

"11-726. **Salaries of police judges.** The annual salary and compensation of police judges must be fixed by ordinance."

Approved: February 28, 1967.

CHAPTER 187

An Act to Amend Section 93-9913, Revised Codes of Montana, 1947, as Amended by Chapter 182, Laws of 1965, Relating to Payment for Removal of Personal Property in Eminent Domain Proceedings and Providing for Payment of Interest.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 93-9913, Revised Codes of Montana, 1947, be and the same is hereby amended to read as follows:

Date of compensation assessment.

"93-9913. **The date with respect to which compensation shall be assessed.** For the purpose of assessing compensation the right thereto shall be deemed to have accrued at the date of the service of the summons, and its actual value as of that date shall be the measure of compensation for all property to be actually taken, and the basis of depreciation in value of property not actually taken, but injuriously affected, *and the reasonable cost of removal of all necessary personal property from the condemned real property within a reasonable distance in the area, not to exceed the sum of six thousand dollars ($6,000) in the case of a business, farm or ranch relocation, and not to exceed the sum of four hundred dollars ($400) in any other case. This shall not be construed to limit the amount of compensation payable by the state highway commission under the provisions of any legislation enacted pursuant to*

Cost of removal.

HeinOnline -- 1967 vol. I 326 1967

the Federal Highway Beautification Act of 1965. If an order be made letting the plaintiff into possession, as provided in section 93-9920, the full amount finally awarded shall draw lawful interest from the date on which the property owner surrenders possession of the property in accordance with the terms of such order to the earlier of the following dates: Interest.

(a) The date on which the right to appeal to the Montana supreme court expires, or *if appeal is filed, to the date of final decision by the supreme court, or*

(b) The date on which the property owner withdraws from court the full amount finally awarded.

If the property owner withdraws from court a fraction of the amount finally awarded, interest on such fraction shall cease on the date it is withdrawn but interest on the remainder of the amount finally awarded shall continue to the earlier of the aforesaid dates defined in (a) and (b) of this section. None of the amount finally awarded shall draw interest after the date on which the right to appeal to the Montana supreme court expires. No improvements put upon the property, subsequent to the date of the service of summons, shall be included in the assessment of compensation or depreciation in value, nor shall the same be used as the basis of computing such compensation or depreciation.''

Approved: February 28, 1967.

CHAPTER 188

An Act to Provide That an Individual Who Has Received a Lump Sum Settlement Under the Workmen's Compensation Law Shall Not Be Barred From Receiving Benefits Under the Unemployment Compensation Law for Any Week Except for the Week in Which the Lump Sum Payment is Paid; Amending Section 87-106, R.C.M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 87-106, R.C.M. 1947, is amended to read as follows: Amending clause.

HeinOnline -- 1967 vol. I 327 1967

Disqualification for benefits.

"87-106. **Disqualification for benefits.** An individual shall be disqualified for benefits—

Left work without good cause.

(a) If he has left work without good cause attributable to the employment for a period of not less than two (2) or more than five (5) weeks (in addition to and immediately following the waiting period), as determined by the commission according to the circumstances in each case. No benefit payments or amounts paid any individual after having left work without good cause attributable to the employment shall ever be charged under section 87-109 against any employer (whose employment the individual left) on account of that particular employment.

Discharged.

(b) If he has been discharged:

(1) For misconduct connected with his work, or affecting his employment, for a period of not less than two (2) nor more than nine (9) weeks (in addition to and immediately following the waiting period), as determined by the commission in each case according to the seriousness of the misconduct:

(2) For gross misconduct connected with his work or committed on the employer's premises, as determined by the commission, for a period of twelve (12) months.

No benefit payments or amounts paid any individual after having been discharged for misconduct shall ever be charged under section 87-109 against any employer (from whose employment the individual was discharged for misconduct as above provided) on account of that particular employment.

Failed to apply for available work.

(c) If he failed, without good cause, either to apply for available and suitable work when so directed by the employment office or the commission or to accept suitable work offered to him which he is physically able and mentally qualified to perform, or to return to his customary self-employment (if any) when so directed by the commission. Such disqualification shall continue for the week in which such failure occurred and for not less than two (2) nor more than five (5) weeks in addition to the waiting week which immediately follow such week as determined by the commission according to the circumstances in each case.

HeinOnline -- 1967 vol. I 328 1967

Suitable work.

(1) In determining whether or not any work is suitable for an individual, the commission shall consider the degree of risk involved to his health, safety, and morals, his physical fitness and prior training, his experience and previous earnings, his length of unemployment and prospects for securing local work in his customary occupation, and the distance of the available work from his residence.

Non-suitable work.

(2) Notwithstanding any other provisions of this act, no work shall be deemed suitable and benefits shall not be denied under this act to any otherwise eligible individual for refusing to accept new work under any of the following conditions:

(A) If position offered is vacant due directly to a strike, lockout, or other labor dispute;

(B) If the wages, hours, or other conditions of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality;

(C) If as a condition of being employed the individual would be required to join a company union or to resign from or refrain from joining any bona fide labor organization.

Labor disputes.

(d) For any week with respect to which the commission finds that his total unemployment is due to a stoppage of work which exists because of a labor dispute at the factory, establishment, or other premises at which he is or was last employed, provided that this subsection shall not apply if it is shown to the satisfaction of the commission that —

Exceptions.

(1) He is not participating in or financing or directly interested in the labor dispute which caused the stoppage of work; and

(2) He does not belong to a grade or class of workers of which immediately before the commencement of the stoppage, there were members employed at the premises at which the stoppage occurs, any of whom are participating in or financing or directly interested in the dispute;

Separate branches of work.

Provided, that if in any case separate branches of work which are commonly conducted as separate businesses in separate premises are conducted in separate

HeinOnline -- 1967 vol. I 329 1967

departments of the same premises, each such department shall, for the purpose of this subsection, be deemed to be a separate factory, establishment, or other premises; provided, further, that if the commission, upon investigation, shall find that such labor dispute is caused by the failure or refusal of any employer to conform to the provisions of any law of the state wherein the labor dispute occurs or of the United States pertaining to collective bargaining, hours, wages or other conditions of work, such labor dispute shall not render the workers ineligible for benefits.

Payment.

(e) For any week with respect to which he is receiving or has received payment in the form of—

Wages.

(1) Wages in lieu of notice or separation or termination allowance;

Workmen's compensation.

(2) Compensation for disability under the Workmen's Compensation Law or the Occupational Disease Law of this or any other state or under a similar law of the United States;

Unemployment benefits.

(3) Benefits under the Railroad Unemployment Insurance Act or any state unemployment compensation act or similar laws of any state or of the United States. This disqualification does not apply to any week with respect to which an individual is receiving or has received benefits under an unemployment compensation law of another state or of the United States, if such benefits are paid pursuant to section 87-129.

Compensation as set forth in subsection (2) above, which is received as a lump sum payment for a permanent disability shall not be computed to be spread over a period of weeks in advance so as to bar the recipient from receiving benefits under this act for any week except the one in which the lump sum payment is made, providing recipient has earned sufficient new wage credits following settlement.

Repayment of benefits.

Receipt of any wages, compensation or benefits as set forth in subsection (1), (2), or (3) above, after payment of unemployment benefits, and with respect to the same week for which unemployment benefits were received, will thereupon require such individual to repay such unemployment benefits and the commission may collect such unemployment benefits in the same manner as provided for collection of benefits under section 87-145 (d).

HeinOnline -- 1967 vol. I 330 1967

(f) During the school year (within the autumn, winter and spring seasons of the year) or the vacation periods within such school year or during any prescribed school term if claimant is a student regularly attending an established educational institution. **Students.**

(g) For any week wherein claimant leaves her most recent work to be married. Such disqualification shall cancel all existing wage credits and shall continue until such time as subsequently to such week additional wage credits shall have been earned so as to be eligible for benefits under section 87-105. **Marriage.**

(h) Where retired and entitled to receive retirement compensation in excess of one hundred dollars ($100) per calendar month paid in whole or in part from funds furnished by an employing unit, such disqualification to be applied as follows: All wages earned by such individual in the employment from which he has been retired shall not be considered or included in determining his wage credits or weekly benefit amount under section 87-103 or 87-105. No benefit payments or amounts paid any retired individual shall ever be charged under section 87-109 against any employing unit from whose employment the individual is retired and entitled to receive retirement compensation, on account of that particular employment, unless and until the commission shall determine (upon hearing, if requested by employer, and after at least ten (10) days' written notice of such hearing to said employer) that the individual was not retired by the employer acting in good faith. This disqualification does not extend to the receipt of benefits under the Federal Social Security Act, as amended. **Retirement.**

(i) For any week wherein claimant leaves her most recent employment during pregnancy, and due to such pregnancy, and such disqualifications shall continue through the period of pregnancy unless claimant presents evidence of her physical ability to work at such employment. At any time after the seventh month of pregnancy a claimant, to establish eligibility, must present evidence of physical ability to work at such employment. Further, at any time during the first two (2) months following childbirth, a claimant, to establish eligibility, must present evidence of her physical ability to work at such employment. In any of the cases set forth hereinbefore, **Pregnancy.**

HeinOnline -- 1967 vol. I 331 1967

such evidence of eligibility must be in the form of a certificate of a duly licensed physician that such claimant is physically able to work at her most recent employment, and such evidence must be presented as often as requested by the commission. No benefit payments or amounts paid any individual after having left work because of pregnancy or childbirth shall ever be charged under section 87-109 against the employer (whose employment the individual left because of pregnancy or because of childbirth) on account of that particular employment.

Residence.

(j) For any week wherein claimant leaves her most recent work to change her place of residence in order to remain with her husband or relative. Such disqualification shall cancel all existing wage credits and shall continue until such time as subsequently to such week additional wage credits shall have been earned so as to be eligible for benefits under section 87-105."

Approved: February 28, 1967.

CHAPTER 189

An Act to Amend Section 11-728, R.C.M. 1947, to Provide That the Annual Compensation of the City Treasurer May Be Set by Ordinance; and Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 11-728, R.C.M. 1947, be amended to read as follows:

Salary of city treasurer.

"11-728. **Salary of city treasurer.** The annual salary and compensation of the treasurer must be fixed by ordinance, and must be for all services rendered by such treasurer in any capacity."

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Approved: February 28, 1967.

CHAPTER 190

An Act Raising Nighttime Speed Limit on Controlled Access Highways to Sixty-five (65) Miles Per Hour; Amending Section 32-2144, R.C.M. 1947.

HeinOnline -- 1967 vol. I 332 1967

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 32-2144, R.C.M. 1947 is amended to read as follows: Amending clause.

"32-2144. **Speed restrictions—basic rule.** (a) Every person operating or driving a vehicle of any character on a public highway of this state shall drive the same in a careful and prudent manner, and at a rate of speed no greater than is reasonable and proper under the conditions existing at the point of operation, taking into account amount and character of traffic, condition of brakes, weight of vehicle, grade and width of highway, condition of surface, and freedom of obstruction to view ahead, and so as not to unduly or unreasonably endanger the life, limb, property, or other rights of any person entitled to the use of the street or highway. Speed restrictions —basic rule.

(b) Where no special hazard exists that requires lower speed for compliance with paragraph (a) of this section the speed of any vehicle not in excess of the limits specified in this section or established as hereinafter authorized, shall be lawful, but any speed in excess of the limits specified in this section or established as hereinafter authorized shall be unlawful: Special districts.

1. Twenty-five (25) miles per hour in any urban district;

2. Thirty-five (35) miles per hour on any highways under construction or repairs;

3. Fifty-five (55) miles per hour in such other locations during the nighttime; *except that the nighttime speed limit on those completed sections of interstate highways shall be sixty-five (65) miles per hour, however, the Montana highway commission shall have the authority to establish reduced night speed limits on curves and other dangerous locations as set forth in section 32-2145, R.C.M. 1947.* Nighttime.

Daytime means from a half (½) hour before sunrise to a half (½) hour after sunset. Nighttime means at any other hour. Daytime and nighttime.

The speed limits set forth in this section may be altered as authorized in sections 32-2145 and 32-2146.

(c) The driver of every vehicle shall, consistent with the requirements of paragraph (a), drive at an appropriate

HeinOnline -- 1967 vol. I 333 1967

reduced speed when approaching and crossing an intersection or railway grade crossing, when approaching and going around a curve, when approaching a hill crest, when traveling upon any narrow or winding roadway, and when special hazard exists with respect to pedestrians or other traffic or by reason of weather or highway condition."

Approved: February 28, 1967.

CHAPTER 191

An Act Requiring the Registrar of Motor Vehicles to Issue a New Certificate of Ownership and a New Certificate of Registration for a Vehicle Title Which Has Been Involuntarily Transferred and Which Has Not Been Previously Registered in This State; Amending Section 53-109, R.C.M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 53-109, R.C.M. 1947, is amended to read as follows:

Transfer of title or interest—procedure.

"53-109. **Transfer of title or interest.** (a) Upon a transfer of any title or interest of an owner or owner in or to a motor vehicle registered under the provisions of this act as hereinbefore required, the person or persons whose title or interest is to be transferred shall write their signatures with pen and ink upon the certificate of ownership issued for such vehicle, in the appropriate space provided upon the reverse side of such certificate, and such signature shall be acknowledged before a notary public.

(b) Within ten (10) days thereafter, the transferee shall forward both the certificate of ownership so endorsed and the certificate of registration, together with the information required under section 53-107, to the registrar, who shall file the same upon receipt thereof and no certificate of ownership and certificate of registration shall be issued by the registrar of motor vehicles until the outstanding certificates are surrended to that office or their loss established to his reasonable satisfaction.

HeinOnline -- 1967 vol. I 334 1967

Transfer to dealers.

(c) The provisions of subdivision (b) of this section, requiring a transferee to forward the certificate of ownership after endorsement and the certificate of registration to the registrar, shall not apply in the event of the transfer of a motor vehicle to a duly licensed automobile dealer intending to resell such vehicle and who operates the same only for demonstration purposes, but every such dealer shall upon transferring such interest deliver such certificate of ownership and certificate of registration with an application for registration executed by the new owner in accordance with the provisions of section 53-107, and the registrar upon receipt of said certificate of ownership, certificate of registration and application for registration, together with the conditional sales contract or other lien, if any, shall issue a new certificate of ownership and certificate of registration together with a statement of any conditional sales contract, mortgage, or other lien as provided in said section 53-107.

When delivery effective.

(d) Until said registrar shall have issued a certificate of registration and certificate of ownership and statement as hereinbefore provided, delivery of any motor vehicle shall be deemed not to have been made and title thereto shall not have passed and said intended transfer shall be incomplete and not be valid or effective for any purpose.

Transfer by operation of law.

(e) In the event of a transfer by operation of law of any title or interest of an owner of the legal title or owner in and to a motor vehicle as upon inheritance, devise or bequest, order in bankruptcy or insolvency, execution sale, repossession upon default in the performance of the terms of a lease or executory sales contract, or otherwise than by voluntary act of the person whose title or interest is so transferred, the executor, administrator, receiver, trustee, sheriff or other representative or successor in interest of the person whose title or interest is so transferred shall forward to the registrar of motor vehicles an application for registration in the form required for an original application for registration, together with a verified or certified statement of the transfer of such title or interest which statement shall set forth the reason for such involuntary transfer, the title or interest so transferred, the name or names of the person or persons to whom such title or interest is to be transferred, the process of procedure effecting such trans-

HeinOnline -- 1967 vol. I 335 1967

fer and such other information as may be requested by the registrar and with such statement shall be furnished such evidence and instruments as may otherwise be required by law to effect a transfer of legal or equitable title to or an interest in chattels as may be required in such cases, and in the event the registrar shall be satisfied that such transfer is regular and that all formalities as required by law have been complied with, he shall cause to be sent to the owner, conditional sales vendors, lessors, mortgagees and other lienors, as shown by his records notice of such intended transfer and thereafter, but not less than five (5) days thereafter, shall register such motor vehicle and shall issue a new certificate of ownership and certificate of registration to the person or persons entitled thereto. The notice herein required shall be deemed complied with by deposit in the post office in Deer Lodge, Montana, such notice, postage prepaid, addressed to such person or persons at the respective addresses shown on his records.

When the vehicle title that is involuntarily transferred is not registered in this state the procedure set forth above must be followed in applying for a new certificate of ownership and certificate of registration, but the registrar need not send notice of intended transfer and shall issue a new certificate of ownership and a new certificate of registration to the person entitled thereto.

Summary transfer on death of owner.

In the event of the death of an owner of one or more motor vehicles and/or trailer, and/or semitrailer, and/or trailer-house registered hereunder and not exceeding the value of one thousand dollars ($1,000.00), without leaving other property necessitating the procuring of letters of administration or letters testamentary, then the surviving husband or wife, or other heir, unless such property is by will otherwise bequeathed, may secure transfer of the certificate of ownership and the certificate of registration of the deceased, in and to such motor vehicle in the name of the surviving husband or wife or other heir, as above mentioned, upon filing with the registrar an affidavit of such person setting forth the fact of survivorship and the name and address of any other heirs and such other facts as are hereby made necessary to entitle the affiant to a transfer and thereupon the registrar is authorized to make such transfer of the certificate of ownership and certificate of registration, subject to all contracts, leases, mortgages, or other liens as shown by his records.

HeinOnline -- 1967 vol. I 336 1967

Assignment by lienors.

Nothing in the foregoing subdivision of this section shall prevent any conditional sales vendor, mortgagee, or other lienor from assigning his interest or title in or to a motor vehicle registered under the provisions of this act to any other person without the consent of and without effecting the interest of the holder of the certificate of ownership and certificate of registration. Upon any conditional sales vendor, mortgagee, or other lienor assigning his interest in any motor vehicle registered under this act a copy of such assignment must be filed with the registrar and record thereof made upon his records.

Transfer to junk dealers.

(f) Every person who transfers any motor vehicle to a junk dealer for the purpose of scrapping said vehicle shall so notify the registrar and deliver the certificate of ownership and certificate of registration to the registrar for cancellation."

Approved: February 28, 1967.

CHAPTER 192

An Act to Amend Section 92-704, Revised Codes of Montana, 1947, as Last Amended by Increasing the Number of Weeks of Compensation to Be Paid for Injury Causing Death From Five Hundred Weeks to Six Hundred Weeks.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That Section 92-704, R.C.M., 1947, be amended to read as follows:

Compensation for injury causing death—beneficiary within U. S.

"92-704. (2915) **Compensation for injury causing death.** For beneficiaries residing within the United States: Where decedent leaves one (1) beneficiary, fifty per centum (50%) of the wages received at the time of the injury, subject to a maximum compensation of thirty-five dollars ($35.00) per week; where decedent leaves two (2) beneficiaries, fifty-five per centum (55%) of the wages received at the time of the injury, subject to a maximum compensation of thirty-eight dollars ($38.00) per week; where decedent leaves three (3) beneficiaries, sixty per centum (60%) of the wages received at the time of the injury subject to a maximum compensation of forty-two dollars ($42.00) per week; where decedent

HeinOnline -- 1967 vol. I 337 1967

leaves four (4) beneficiaries, sixty-two and one-half *per centum* (62½%) of the wages received at the time of the injury, subject to a maximum compensation of forty-six dollars ($46.00) per week; where decedent leaves five (5) beneficiaries, sixty-five per centum (65%) of the wages received at the time of the injury, subject to a maximum compensation of fifty-one dollars ($51.00) per week; where decedent leaves six (6) or more beneficiaries, sixty-six and two-thirds per centum (66⅔%) of the wages received at the time of the injury, subject to a maximum compensation of fifty-six dollars ($56.00) per week; and subject in all such cases to a minimum compensation of thirty-one and 50/100 dollars ($31.50) per week.

Beneficiary outside U. S.

For beneficiaries residing outside of the United States: Where decedent leaves one (1) beneficiary, forty per centum (40%) of the compensation which would be payable to such beneficiary, if residing within the United States; where decedent leaves two (2) beneficiaries, forty-five per centum (45%) of the compensation which would be payable to such beneficiaries, if residing within the United States; where decedent leaves three (3) beneficiaries, forty-seven and one-half per centum (47½%) of the compensation which would be payable to such beneficiaries, if residing within the United States; where decedent leaves four (4) or more beneficiaries, fifty per centum (50%) of the compensation which would be payable to such beneficiaries, if residing within the United States.

No beneficiaries.

If decedent leaves no beneficiaries, then compensation shall be payable as follows: To his major dependents, if any, residing in the United States at the date of the happening of the injury; where decedent leaves one (1) major dependent, fifty per centum (50%) of the wages received at the time of the injury, subject to a maximum compensation of thirty-five dollars ($35.00) per week; where decedent leaves two (2) major dependents, fifty-five per centum (55%) of the wages received at the time of the injury, subject to a maximum compensation of thirty-eight dollars ($38.00) per week.

No major dependents.

If the decedent leaves no major dependents, compensation shall be payable to his minor dependents, if any, if residing within the United States at the time of the happening of the injury, as follows: Where decedent leaves one (1) minor dependent, thirty per centum (30%) of the wages received at the time of the injury, subject to a

HeinOnline -- 1967 vol. I 338 1967

maximum compensation of thirty-five dollars ($35.00) per week; where decedent leaves two (2) minor dependents, thirty-five per centum (35%) of the wages received at the time of the injury, subject to a maximum compensation of thirty-eight dollars ($38.00) per week; where decedent leaves three (3) or more minor dependents, forty per centum (40%) of the wages received at the time of the injury, subject to a maximum compensation of forty-six dollars $46.00) per week.

No major or minor dependents.

If the decedent leaves no major or minor dependents a lump sum in the amount of three thousand and no/100 dollars ($3,000.00) shall be payable to his surviving parent or parents.

Maximum compensation.

All such payments of compensation provided for in this section shall be subject to a maximum compensation of fifty-six dollars ($56.00) per week for a period not exceeding *six hundred weeks* and subject to change when the number of beneficiaries or dependents increases by birth, or decreases, and provided, further, that compensation payable to major or minor dependents shall not exceed the amount of the dependency."

Approved: February 28, 1967.

CHAPTER 193

An Act Authorizing and Empowering the Supreme Court of the State of Montana to Regulate by Rules, the Pleading, Practice and Procedure in Criminal Cases in the Courts of the State of Montana, for the Purpose of Simplifying Criminal Proceedings and Promoting the Speedy Determination of Such Proceedings Upon Their Merits.

Be it enacted by the Legislative Assembly of the State of Montana:

Supreme court shall have power to regulate pleadings, practice, procedure and forms in criminal actions.

Section 1. The supreme court of this state shall have the power to regulate the pleadings, practice, procedure, and the forms thereof in criminal actions in all courts of this state, by rules promulgated by it from time to time, for the purpose of simplifying criminal proceedings in the courts of Montana and for promoting the speedy determination of such proceedings upon their merits. Such rules shall not abridge, enlarge, or modify the sub-

HeinOnline -- 1967 vol. I 339 1967

stantive rights of either the state or a defendant and shall not be inconsistent with the constitution of the state of Montana.

Advisory committee.

Section 2. Before any rules are adopted the supreme court shall appoint an advisory committee consisting of six members of the bar of the state, three of whom shall be county attorneys and three judges of the district courts to assist the court in considering and preparing such rules as it may adopt.

Proposed rules.

Section 3. Before any rule is adopted, the supreme court shall distribute copies of the proposed rule to the bench and bar of the state for their consideration and suggestions and give due consideration to such suggestions as they may submit to the court. The Montana bar association or the association of Montana judges may file with the supreme court a petition specifying their suggestions concerning any existing or proposed rule and requesting a hearing thereon within six months after the filing of the petition.

Present rules effective until superseded.

Section 4. All present laws and rules relating to criminal pleading, practice and procedure, shall be effective as rules of court until modified or superseded by subsequent court rule, and upon the adoption of any rule pursuant to this act such laws and rules, in so far as they are in conflict therewith, shall thereafter be of no further force and effect.

Effective term.

Section 5. All rules promulgated under this act shall be effective at a time fixed by the supreme court, but such rule-making power shall expire January 1, 1969.

Saving clause.

Section 6. This act shall not abridge the right of the legislature to enact, modify, or repeal any statute or modify or repeal any rule of the supreme court adopted pursuant thereto.

Approved: February 28, 1967.

CHAPTER 194

An Act Apportioning the Legislative Assembly; Providing for Filling of Vacancies in the Legislative Assembly; and Amending Sections 23-803, 23-910, 23-921,

HeinOnline -- 1967 vol. I 340 1967

23-1109, 23-1111, 23-1807, 23-1812, 23-1904, 23-2402 and 23-2403, R.C.M. 1947; and Repealing Sections 16-508, 16-518, 23-1108, 23-1809, 23-1810, 23-1812, 43-101, 43-102, 43-103, 43-104, 43-105, 43-106, 43-203 and 43-204, R.C.M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Senate membership —districts.

Section 1. The senate of the legislative assembly shall consist of fifty-five (55) members. The senatorial districts and the number of senators elected from each district are as follows:

Senatorial District Number	Number of Senators	District Consists of County or Counties
1	1	Carter, Fallon, Wibaux, Prairie
2	1	Dawson
3	1	Richland and McCone
4	1	Roosevelt
5	2	Valley, Daniels, Sheridan
6	1	Rosebud, Treasure, Garfield, Petroleum
7	1	Custer
8	1	Big Horn, Powder River
9	6	Yellowstone
10	1	Phillips, Blaine
11	1	Fergus
12	1	Musselshell, Golden Valley, Wheatland, Sweetgrass
13	1	Carbon, Stillwater
14	1	Park
15	2	Gallatin
16	1	Jefferson, Broadwater, Meagher
17	1	Chouteau, Judith Basin
18	6	Cascade
19	2	Hill, Liberty
20	2	Toole, Pondera, Teton
21	2	Lewis and Clark
22	2	Deer Lodge, Powell, Granite
23	4	Silver Bow
24	1	Beaverhead, Madison

HeinOnline -- 1967 vol. I 341 1967

25	1	Ravalli
26	4	Missoula
27	1	Sanders, Mineral
28	1	Lake
29	1	Glacier
30	3	Flathead
31	1	Lincoln

House membership —districts.

Section 2. The house of representatives of the legislative assembly shall consist of one-hundred and four (104) members. The representative districts and the number of representatives elected from each district are as follows:

Representative District Number	Number of Representatives	District Consists of County or Counties
1	2	Carter, Fallon, Wibaux and Prairie
2	2	Dawson
3	2	Richland and McCone
4	2	Roosevelt
5A	1	Sheridan
5B	3	Valley, Daniels
6	2	Rosebud, Treasure, Garfield and Petroleum
7	2	Custer
8	2	Big Horn and Powder River
9	12	Yellowstone
10A	1	Phillips
10B	1	Blaine
11	2	Fergus
12A	1	Musselshell and Golden Valley
12B	1	Wheatland and Sweet Grass
13	2	Carbon and Stillwater
14	2	Park
15	4	Gallatin
16	2	Jefferson, Broadwater and Meagher
17	2	Chouteau and Judith Basin
18	11	Cascade
19	3	Hill and Liberty
20A	1	Toole

HeinOnline -- 1967 vol. I 342 1967

20B	1	Pondera
20C	1	Teton
21	4	Lewis and Clark
22A	1	Powell
22B	3	Deer Lodge and Granite
23	7	Silver Bow
24A	1	Beaverhead
24B	1	Madison
25	2	Ravalli
26	7	Missoula
27	2	Sanders and Mineral
28	2	Lake
29	2	Glacier
30	5	Flathead
31	2	Lincoln

Section 3. Section 23-803, R.C.M., 1947 is amended to read as follows: Amending clause.

"23-803. **Certificate, where filed.** Certificates of nomination of candidates *for the legislative assembly and* for offices to be filled by the electors of the entire state, or of any division or district greater than a county, must be filed with the secretary of state. Certificates of nomination for county, township, and precinct officers must be filed with the clerks of the respective counties wherein the officers are to be elected. Certificates of nomination for municipal officers must be filed with the clerks of the respective municipal corporations wherein the officers are to be elected." Certificate —filing.

Section 4. Section 23-910, R.C.M. 1947 is amended to read as follows: Amending clause.

"23-910. **Petitions for nomination to be filed.** (1) Any person who shall desire to become a candidate for nomination to any office under this law shall send by registered mail, or otherwise, to the secretary of state, county clerk, or city clerk, a petition for nomination, signed by himself, accompanied by the filing fee hereinafter provided for, and such petition shall be filed and shall be conclusive evidence for the purpose of this law that such elector is a candidate for nomination by his party. All nominating petitions pertaining to congressional, state or district offices to be voted for in more than one county, *for members of the legislative assembly,* and for judges of the district court shall be filed in the Petitions for nominations.

HeinOnline -- 1967 vol. I 343 1967

offices of the secretary of state; for county and district offices, to be voted for in one county only, and for township and precinct offices, shall be filed in the office of the county clerk; and for all city offices in the office of the city clerk.

Filing fees.

The fees required to be paid for filing such petitions shall be as follows:

For any office with a salary attached of one thousand dollars ($1,000.00) or less per annum, ten dollars ($10.00); except candidates for the state senate and house of representatives shall be fifteen dollars ($15.00).

For any office with a salary attached of more than one thousand dollars ($1,000.00) per annum, one per cent (1%) of total amount of annual salary.

For the office of county commissioner in counties of the first class, forty dollars ($40.00); in counties of the second class, thirty-five dollars ($35.00); in counties of the third class, thirty dollars ($30.00); in counties of the fourth class, twenty-five dollars ($25.00); in all other classes of counties, ten dollars ($10.00).

For the office the compensation of which consists of fees instead of a salary, five dollars ($5.00).

For state, county and precinct committeeman, delegates to national conventions and presidential electors no fees shall be required to be paid.

Write-in candidates.

(2) Any person receiving the nomination by having his name written in on the primary ballot, and desiring to accept such nomination, shall file with the secretary of state, county clerk, or city clerk, a written declaration indicating his acceptance of said nomination within ten (10) days after the election at which he receives such nomination, and at the same time he shall pay to the officer with whom such declaration of acceptance is filed the fee above provided for filing a primary nominating petition for such office, provided that such person must receive at least five per cent (5%) of the votes cast for such office at the last preceding general election. No candidate receiving a nomination at a primary election as above provided shall have his name printed on the official ballot for the general election without complying with the provisions of this section."

HeinOnline -- 1967 vol. I 344 1967

Section 5. Section 23-921, R.C.M. 1947 is amended to read as follows: Amending clause.

"23-921. **Canvass of returns.** (1) On the third day after the close of any primary nominating election, or sooner if all the returns be received, the county clerk, taking to his assistance two justices of the peace of the county of different political parties, if practicable, or two members of the board of county commissioners of the county of different political parties, if possible, or one justice of the peace and one member of the board of county commissioners of the county of different political parties, if practicable, shall proceed to open said returns and make abstracts of the votes. Such abstracts of votes for nominations for governor and for senator in congress shall be on one separate sheet for each political party, and shall be immediately transmitted to the secretary of state in like manner as other election returns are transmitted to him. Such abstract of votes for nomination of each party for lieutenant governor, secretary of state, attorney general, state auditor, superintendent of public instruction, railroad commissioners, clerk of the supreme court, state treasurer, justices of the supreme court, members of congress, judges of the district court, and members of the legislative assembly, shall be on one sheet, separately for each political party, and shall be forthwith transmitted to the secretary of state, as required by the following section. Canvass of returns.

(2) The abstract of votes for county and precinct offices shall be on another sheet separately for each political party; and it shall be the duty of said clerk immediately to certify the nomination for each party and enter upon his register of nominations the name of each of the persons having the highest number of votes for nomination as candidates for county, and precinct offices, respectively, and to notify by mail each person who is so nominated; provided, that when a tie shall exist between two or more persons for the same nomination by reason of said two or more persons having an equal and the highest number of votes for nomination by one party to one and the same office, the county clerk shall give notice to the several persons so having the highest and equal number of votes to attend at his office at a time to be appointed by said clerk, who shall then and there proceed publicly to decide by lot which of the persons Abstract of votes.

HeinOnline -- 1967 vol. I 345 1967

so having an equal number of votes shall be declared nominated by his party; and said clerk shall forthwith enter upon his register of nominations the name of the persons thus duly nominated, in like manner as though he had received the highest number of the votes of his party for that nomination; and it shall be the duty of the county clerk of every county, on receipt of the returns of any general primary nominating election, to make out his certificate stating therein the compensation to which th judges and clerks of election may be entitled for their services, and lay the same before the county board of county commissioners at its next term, and the said board shall order the compensation aforesaid to be paid out of the county treasury. In all primary nominating elections in this state, under the provisions of this law, the person having the highest number of votes for nomination to any office shall be deemed to have been nominated by his political party for that office."

Amending clause.

Section 6. Section 23-1109, R.C.M. 1947 is amended to read as follows:

Ballot form.

"23-1109. **Columns and material to be printed on ballot.** Each ballot shall contain at the top the stub as provided by section 23-1114, and directly underneath the perforated line shall be the following words in bold face type, "VOTE IN ALL COLUMNS." Each ballot shall contain three (3) columns. *Notwithstanding the example in section 23-1112, R.C.M. 1947,* at the head of the first column to the left shall be the words, "STATE AND NATIONAL," in large bold face type, followed by a list of all candidates for state and national offices, including supreme court justices, and district court judges, *and members of the legislative assembly,* and such list shall progressively continue on to the top of the second column. Following the list of state and national candidates shall be the words "COUNTY AND TOWNSHIP," in large bold face type and beneath such heading shall be listed all candidates for county and township offices and such list shall progressively continue on to the top of the third column. Following the list of county and township candidates shall be the words "INITIATIVES, REFERENDUMS, AND CONSTITUTIONAL AMENDMENTS," in large bold face type, and listed thereunder shall be all proposed constitutional amendments and measures to be voted on by the people at such election which do not involve the creation of any state levy, debt or liability. In

HeinOnline -- 1967 vol. I 346 1967

case there are no such measures to be submitted, the said heading entitled "INITIATIVES, REFERENDUMS, AND CONSTITUTIONAL AMENDMENTS," shall be eliminated. Every ballot shall be so printed that all matter heretofore required to be printed on each ballot shall be equally apportioned among the three columns as nearly as possible in the order heretofore and hereafter specified. All such measures which involve the creation of a state levy, debt or liability shall be submitted to the qualified voters upon a separate official ballot in substantial conformity with the form provided for by section 23-1112, for the submission of such measures."

Amending clause.

Section 7. Section 23-1111, R.C.M. 1947 is amended to read as follows:

Order of placement.

"23-1111. **Order of placement.** *Notwithstanding the example in section 23-1112, R.C.M. 1947,* the order of the placement of the offices on the ballot in the first column, or to the left, designated "STATE AND NATIONAL," shall be as follows: "President and vice-president, together with the presidential electors; United States senator; United States representative in congress; governor; lieutenant governor; secretary of state; attorney general; state treasurer; state auditor; railroad and public service commissioners; state superintendent of public instruction; clerk of the supreme court; chief justice of the supreme court; associate justice or justices of the supreme court; district court judges; *state senators, members of the house of representatives;"* provided, however, that in the years in which any of such offices are not to be elected, such offices shall not be designated, but the order of those offices to be filled shall maintain their relative positions as herein provided.

In the second column, designated, "COUNTY AND TOWNSHIP," the following order of placement shall be observed: "clerk of district court; county commissioner; county clerk and recorder; sheriff; county attorney; county auditor." Such other offices to be elected shall be placed following the foregoing in the order deemed most appropriate by the county clerk. In the third column constitutional amendments shall come first with referendum and initiative measures following."

Amending clause.

Section 8. Section 23-1807, R.C.M. 1947 is amended to read as follows:

HeinOnline -- 1967 vol. I 347 1967

Duty of canvassing board.

"23-1807. **Duty of canvassing board.** The board must declare elected the person having the highest number of votes given for each office to be filled by the votes of a single county or a subdivision thereof, *except members of the legislative assembly.* If a recount shall show that two or more persons received an equal and sufficient number of votes to elect to the office of state senator, or member of the house of representatives, the *state* recount board shall certify such facts to the governor."

Amending clause.

Section 9. Section 23-1812, R.C.M. 1947 is amended to read as follows:

State returns —how made.

"23-1812. **State returns, how made.** When there has been a general or special election for officers voted for by the electors of the state at large, *for members of the legislative assembly,* or for judicial officers (except justices of the peace), each clerk of the board of county canvassers, so soon as the statement of the vote of his county is made out and entered upon the records of the board of county commissioners, must make a certified abstract of so much thereof as relates to the votes given for persons for said offices to be filled at such election."

Amending clause.

Section 10. Section 23-1904, R.C.M. 1947 is amended to read as follows:

Tie vote on judicial officers.

"23-1904. **Tie vote on judicial officers.** In case any two or more persons have an equal and highest number of votes for justice of the supreme court, or judge of a district court, *or member of the legislative assembly,* the secretary of state must transmit to the governor a certified statement showing the vote cast for such person, and thereupon the governor must appoint an eligible person to hold office as in case of other vacancies in such offices."

Amending clause.

Section 11. Section 23-2402, R.C.M. 1947 is amended to read as follows:

Delegates to constitutional convention.

"23-2402. **Delegates to constitutional convention.** The number of delegates to be chosen to such convention shall be not less than one-half of the number of the members of the legislative assembly of Montana, and each *district* shall have one-half of the number of delegates as it is then entitled to elect members of the legislative assembly of Montana, provided, that when the number is an odd number, each *district* shall be entitled to one-half of the next even number. The delegates shall be elected at the next

HeinOnline -- 1967 vol. I 348 1967

general election or primary nominating election held throughout the state, after the Congress has proposed the amendment, or at a special election to be called by the governor, at his discretion, by proclamation at any time after the Congress has proposed the amendment, and except as otherwise provided herein, the election, in all respects, from the nomination of candidates to and including the certificate of election, shall be in accordance as nearly as may be with the laws of the state relating to the election of members of the legislative assembly of the state."

Section 12. Section 23-2403, R.C.M. 1947 is amended to read as follows: Amending clause.

"23-2403. **Nomination of delegates.** Nomination of a candidate for the office of delegate shall be by petition, which shall be signed by not less than one hundred voters of the *district*. Nominations shall be without party or political designation, but shall be as "in favor of" or "opposed to" ratification of the proposed amendment. All petitions and the acceptances thereof shall be filed not less than thirty days prior to the election." Nomination of delegates.

Section 13. Sections 16-508, 16-518, 23-1108, 23-1809, 23-1810, 23-1811, 43-101, 43-102, 43-103, 43-104, 43-105, 43-106, 43-203, and 43-204, R.C.M. 1947 are repealed. Repealing clause.

Approved: February 28, 1967.

CHAPTER 195

An Act Providing for Additional Public Contractors' License Fees for All Public Construction Work in Montana, Defining Terms, Prescribing Method of Collection and Disposition of Fees, Allowing a Credit on Corporation or Income Tax and Personal Property Taxes Paid in Montana by Licensees on Personal Property Used in Licensees' Contracting Business, Providing a Penalty and an Effective Date; Amending Sections 84-3501, and 84-3505, R.C.M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 84-3501, R.C.M. 1947, is amended to read as follows: Amending clause.

HeinOnline -- 1967 vol. I 349 1967

Definitions.

"84-3501. **Definitions.** The following words, terms and phrases in this act are, for the purposes hereof, defined as follows:

"Person."

(a) The word 'person' includes any individual, firm, copartnership, association, corporation or other group or combination acting as a unit, and the plural as well as the singular number, unless the intent to give a more limited meaning is clearly disclosed by the context hereof.

"Public contractor."

(b) A 'public contractor' within the meaning of this act shall include any person who submits a proposal to or enters into a contract *for performing all public construction work in the state,* with the *federal government,* state of Montana, or with any board, commission or department thereof, or with any board of county commissioners, or with any city or town council, or with any agency of any thereof, or with any other public board, body, commission or agency, authorized to let or award contracts for any public work when the contract cost, value or price thereof exceeds the sum of one thousand dollars ($1,000).

"Public contractor" to include.

(c) The term 'public contractor' includes subcontractors undertaking to perform the work covered by the original contract, or any part thereof, the contract cost, value or price of which exceeds the sum of one thousand dollars ($1,000).

"Gross receipts."

(d) 'Gross receipts' means all receipts from sources within the state whether in the form of money, credits or other valuable consideration, received from, engaging in or conducting a business, without deduction on account of the cost of the property sold, the cost of the materials used, labor or service cost, interest paid, taxes, losses or any other expense whatsoever. However, 'gross receipts' shall not include cash discounts allowed and taken on sales and sales refunds, either in cash or by credit, uncollectible accounts written off from time to time, and payments received in final liquidation of accounts included in the gross receipts of any previous return made by the person.''

Amending clause.

Section 2. Section 84-3505, R.C.M. 1947, is amended to read as follows:

Classes of licenses.

"84-3505. **Classes of licenses—rights granted under licenses—fees.**

(1) There shall be three *(3)* classes of licenses issued under the provisions of this act; and such classes of licenses

HeinOnline -- 1967 vol. I 350 1967

are hereby designated as Classes A, B, and C. Any applicant for a license under the provisions hereof, shall specify in his application the class of license applied for. Rights granted under licenses.

(2) The holder of a Class A license shall be entitled to engage in the public contracting business within the state of Montana without any limitation as to the value of a single public contract project, subject, however, to such prequalification requirements as may be imposed by the public body or bodies referred to in section 84-3501 (b) and at the time of making the application for such license the applicant shall pay to the registrar a fee in the sum of two hundred dollars ($200).

(3) The holder of a Class B license shall be entitled to engage in the public contracting business within the state of Montana, but shall not be entitled to engage in the construction of any single public contract project of a value in excess of fifty thousand dollars ($50,000); and shall pay unto the registrar as a license fee the sum of one hundred dollars ($100) for such Class B license at the time of making application therefor.

(4) The holder of a Class C license shall be entitled to engage in the public contracting business within the state of Montana, but shall not be entitled to engage in the construction of any single public contract project of a value in excess of twenty-five thousand dollars ($25,000); and shall pay unto the registrar as a license fee the sum of ten dollars ($10) at the time of making application therefor.

(5) In addition to the fees enumerated above, each public contractor shall pay to the state an additional license fee in a sum equal to one per cent (1%) of the gross receipts from public contracts during the income year for which the license is issued; provided, however, that the additional license fee hereby imposed shall not be paid upon or collectible from the gross receipts from any public contract which has been let to bid, upon which bids have been awarded, or which has been executed by a public body and a public contractor on the effective date of this act. Fees.

(6) Nothing herein shall require any contractor to pay any license fee on any public contract project of a value less than one thousand dollars ($1,000), nor shall any contractor be required to have a license hereunder in order to submit a bid or proposal for contracts advertised to be let Contracts excluded.

HeinOnline -- 1967 vol. I 351 1967

by the Montana highway commission where federal aid is obtained from the bureau of public roads or the department of agriculture of the United States; neither shall a successful bidder be required to be licensed as provided herein before the awarding and execution of any contract to be let by the state highway commission where federal aid from the bureau of public roads or the department of agriculture of the United States is involved.''

Withholding of percentage of gross receipts.

Section 3. The state, county, city or any agency or department thereof, as described in section 84-3501 (b), for whom the contractor is performing public work, shall withhold, in addition to other amounts withheld as provided by law, one per cent (1%) of all payments due the contractor and shall transmit such moneys to the state board of equalization. In the event that the one per cent (1%) of gross receipts is not withheld as provided, the contractor shall make payment of these amounts to the state board of equalization within thirty (30) days after the date on which the contractor receives each increment of payment for work performed by the contractor. Any overpayment of the one per cent (1%) of gross receipts withheld, or paid by any contractor hereunder, shall be refunded by the state board of equalization at the end of the income year upon written application therefor.

Additional license fee as credit.

Section 4. The additional license fees withheld or otherwise paid as provided herein may be used as a credit on the contractor's corporation license tax provided for in title 84, chapter 15, R.C.M. 1947, or on the contractor's income tax provided for in title 84, chapter 49, R.C.M. 1947, depending upon the type of tax the contractor is required to pay under the laws of the state.

Personal property tax as credit.

Personal property taxes paid in Montana on any personal property of the contractor which is used in the business of the contractor and is located within this state may be credited against the license fees required under this act. However, in computing the tax credit allowed by this act against the contractor's corporation license tax or income tax, the personal property tax credit against the licensee fees herein required shall not be considered as license fees paid for the purpose of such income tax or corporation license tax credit.

Rules and regulations.

Section 5. The state board of equalization shall establish rules and regulations necessary for the effective imple-

HeinOnline -- 1967 vol. I 352 1967

mentation of the provisions of this act, including, but not limited to, requiring public contractors to file a contractor's return showing public works contracts performed during a calendar year.

Violation of act and penalty.

Section 6. A person failing to file a contractor's license return as provided and required by the state board of equalization, upon conviction, shall be fined not less than one thousand dollars ($1,000) or more than ten thousand dollars ($10,000).

Effective immediately.

Section 7. This act shall be effective upon passage and approval.

Approved: February 28, 1967.

CHAPTER 196

An Act Creating a Montana Code of Criminal Procedure, to Codify and Generally Revise the Statutes Which Govern Court Procedures in Criminal Matters.

Be it enacted by the Legislative Assembly of the State of Montana:

The Montana Code of Criminal Procedure.

Section 1. There is hereby created The Montana Code of Criminal Procedure which is Title 95 of the Revised Codes of Montana, 1947, and provides:

TITLE 95 MONTANA CODE OF CRIMINAL PROCEDURE

PART I. GENERAL PROVISIONS

CHAPTER 1. SCOPE, PURPOSE AND CONSTRUCTION

Scope.

95-101. **Scope.** These provisions shall govern the procedure in the courts of Montana in all criminal proceedings except where provision for a different procedure is specifically provided by law.

Purpose and construction.

95-102. **Purpose and Construction.** These provisions are intended to provide for the just determination of every criminal proceeding. They shall be construed to secure simplicity in procedure, fairness in administration and elimination of unjustifiable expense and delay.

HeinOnline -- 1967 vol. I 353 1967

Definitions.

CHAPTER 2. DEFINITIONS

95-201. **Meanings of Words and Phrases.** For the purposes of this code, the words and phrases described in this chapter have the meanings designated in this chapter, except when a particular context clearly requires a different meaning.

95-202. **Singular Term Includes Plural—Gender.** Singular term shall include the plural and the masculine gender shall include the feminine except when a particular context clearly requires a different meaning.

"Charge." 95-203. **Charge.** "Charge" means a written statement presented to a court accusing a person of the commission of an offense and includes complaint, information and indictment.

"Conviction." 95-204. **Conviction.** "Conviction" means a judgment of conviction or sentence entered upon a plea of guilty or upon a verdict or finding of guilty of an offense, rendered by a legally constituted jury or by a Court of competent jurisdiction authorized to try the case without a jury.

"Court." 95-205. **Court.** "Court" means a place where justice is judicially administered and includes a judge thereof.

"Judge." 95-206. **Judge.** "Judge" means a person who is invested by law with the power to perform judicial functions and includes court, justice of the peace or police magistrate when a particular context so requires.

"Judgment." 95-207. **Judgment.** "Judgment" means an adjudication by the court that the defendant is guilty or not guilty and if the adjudication is that the defendant is guilty, it includes the sentence pronounced by the court.

"Magistrate." 95-208. **Magistrate.** "Magistrate" is an officer having power to issue a warrant for the arrest of a person charged with an offense and includes:

(a) The justices of the supreme court.

(b) The judges of the district courts.

(c) Justices of the peace.

(d) Police magistrates in towns or cities.

"Offense." 95-209. **Offense.** "Offense" means a violation of any penal statute of this State or of any ordinance of its political subdivisions.

HeinOnline -- 1967 vol. I 354 1967

95-210. **Peace Officer.** "Peace officer" means any person who by virtue of his office or public employment is vested by law with a duty to maintain public order or to make arrests for offenses while acting within the scope of his authority. "Peace officer."

95-211. **Sentence.** "Sentence" is the punishment imposed on the defendant by the court. "Sentence."

CHAPTER 3. JURISDICTION

Jurisdiction.

95-301. **Jurisdiction of the District Court.** The district courts have jurisdiction of all public offenses not otherwise provided for. District court.

95-302. **Jurisdiction of the Justice of the Peace Courts.** The justices' courts have: Justice court.

(a) Jurisdiction of all misdemeanors punishable by a fine not exceeding $500 or imprisonment not exceeding six months, or both such fine and imprisonment;

(b) Concurrent jurisdiction, with district courts, of all misdemeanors punishable by a fine only, not exceeding $1,500; and

(c) Jurisdiction to act as examining and committing courts and for such purpose to conduct preliminary hearings.

95-303. **Jurisdiction of Police and Municipal Courts.** Police court.

(a) The police courts have criminal jurisdiction as authorized by sections 11-1602 and 11-1603.

(b) Municipal courts have criminal jurisdiction as authorized by section 11-1702.

95-304. **State Criminal Jurisdiction.** State criminal jurisdiction.

(a) A person is subject to prosecution in this state for an offense which he commits, while either within or outside the state, by his own conduct or that of another for which he is legally accountable, if:

(1) The offense is committed either wholly or partly within the state; or

(2) The conduct outside the state constitutes an attempt to commit an offense within the state, and an act in furtherance of the offense occurs in the state; or

HeinOnline -- 1967 vol. I 355 1967

(3) The conduct within the state constitutes an attempt, solicitation or conspiracy to commit in another jurisdiction an offense under the laws of this state and such other jurisdiction.

(b) An offense is committed partly within this state, if either the conduct which is an element of the offense, or the result which is an element, occurs within the state. In homicide, the "result" is either the physical contact which causes death, or the death itself, and if the body of a homicide victim is found within the state, the death is presumed to have occurred within the state.

(c) An offense which is based on an omission to perform a duty imposed by the law of this state is committed within the state, regardless of the location of the offender at the time of the omission.

(d) This state includes the land and water and the air space above such land and water with respect to which the state has legislative jurisdiction.

Venue.

CHAPTER 4. VENUE

Place of trial.

95-401. **Place of Trial.** In all criminal prosecutions the trial shall be in the county where the offense was committed unless otherwise provided by law. All objections to improper place of trial are waived by a defendant unless made before trial. If an objection is made a hearing shall be held and the venue established before proceeding to trial.

Offense committed in two counties.

95-402. **Where Offense Committed Partly in One and Partly in Another County.** Where two or more acts are requisite to the commission of any offense, the trial may be in any county in which any of such acts occur.

Offense committed near county boundary.

95-403. **Where Offense Committed on or Near County Boundary.** Where an offense is committed on or within one-half mile of the boundary of two or more counties, and it cannot be readily determined in which county the offense was committed, the offender may be tried in any of such counties.

Person in one county commits offense in another county.

95-404. **Where a Person in One County Commits or Aids and Abets the Commission of an Offense in Another County.** Where a person in one county commits, aids, abets or procures the commission of an offense in another county the offender may be tried in either county.

HeinOnline -- 1967 vol. I 356 1967

Offense committed in transit.

95-405. **Offenses Committed While in Transit.** If an offense is committed in, on or against any instrument of conveyance passing within this state, and it cannot readily be determined in which county the offense was committed, the offender may be tried in any county through which such instrument of conveyance has passed or in the county where the travel terminates.

Causation and death in different counties.

95-406. **Death and Cause of Death in Different Places.** If cause of death is inflicted in one county and the death ensues in another county, the offender may be tried in either county.

Offense commenced outside state.

95-407. **Offense Commenced Outside the State.** If the commission of an offense commenced outside the state is consummated within this state, the offender shall be tried in the county where the offense was consummated.

Stolen property.

95-408. **Stolen Property.** Where a person obtains property by larceny, robbery, false pretenses or embezzlement, he may be tried in any county in which he exerted control over such property.

Escape from prison.

95-409. **Escape From Prison.** A person who escapes from prison may be tried in any county in the state.

Bigamy.

95-410. **Bigamy.** A person who commits the offense of bigamy may be tried in any county where the bigamous marriage or bigamous cohabitation has occurred.

Kidnaping.

95-411. **Kidnaping.** A person who commits the offense of kidnaping may be tried in any county in which his victim has traveled or has been confined during the course of the offense.

Treason.

95-412. **Treason.** A person who commits the offense of treason may be tried in any county.

CHAPTER 5. COMPETENCY OF ACCUSED

Competency of accused.

Mental disease excluding responsibility.

95-501. **Mental Disease or Defect Excluding Responsibility.**

(a) A person is not responsible for criminal conduct if at the time of such conduct as a result of mental disease or defect he is unable either to appreciate the criminality of his conduct or to conform his conduct to the requirements of law.

HeinOnline -- 1967 vol. I 357 1967

(b) As used in this chapter, the terms "mental disease or defect" does not include an abnormality manifested only by re-repeated criminal or otherwise anti-social conduct.

Evidence of mental disease—admissibility.

95-502. **Evidence of Mental Disease or Defect Admissible When Relevant to Element of the Offense.** Evidence that the defendant suffered from a mental disease or defect is admissible whenever it is relevant to prove that the defendant did or did not have a state of mind which is an element of the offense.

95-503. **Mental Disease or Defect Excluding Responsibility is Affirmative Defense; Requirement of Notice: Form of Verdict and Judgment When Finding of Irresponsibility Is Made.**

Mental disease as affirmative defense.

(a) Mental disease or defect excluding responsibility is an affirmative defense which the defendant must establish by a preponderance of the evidence.

Notice.

(b) (1) Evidence of mental disease or defect excluding responsibility is not admissible unless the defendant, at the time of entering his plea of not guilty or within ten days thereafter or at such later time as the court may, for good cause, permit, files a written notice of his purpose to rely on such defense.

(2) The defendant shall give similar notice when in a trial on the merits, he intends to rely on a mental disease or defect, to prove that he did not have a particular state of mind which is an essential element of the offense charged. Otherwise, except on good cause shown, he shall not introduce in his case in chief, expert testimony in support of that defense.

Judgment.

(c) When the defendant is acquitted on the ground of mental disease or defect excluding responsibility, the verdict and the judgment shall so state.

Mental disease excluding fitness.

95-504. **Mental Disease or Defect Excluding Fitness to Proceed.** No person who as a result of mental disease or defect is unable to understand the proceedings against him or to assist in his own defense, shall be tried, convicted or sentenced for the commission of an offense so long as such incapacity endures.

Psychiatric examination.

95-505. **Psychiatric Examination of Defendant With Respect to Mental Disease or Defect.**

HeinOnline -- 1967 vol. I 358 1967

(a) Whenever the defendant has filed a notice of intention to rely on the defense of mental disease or defect excluding responsibility, or there is reason to doubt his fitness to proceed, or reason to believe that mental disease or defect of the defendant will otherwise become an issue in the cause, the court shall appoint at least one qualified psychiatrist or shall request the Superintendent of the Montana state hospital to designate at least one qualified psychiatrist, which designation may be or include himself, to examine and report upon the mental condition of the defendant. The court may order the defendant to be committed to a hospital or other suitable facility for the purpose of the examination for a period of not exceeding sixty days or such longer period as the court determines to be necessary for the purpose and may direct that a qualified psychiatrist retained by the defendant be permitted to witness and participate in the examination.

Method of examination.

(b) In such examination any method may be employed which is accepted by the medical profession for the examination of those alleged to be suffering from mental disease or defect.

Report of examination.

(c) The report of the examination shall include the following:

(1) A description of the nature of the examination; (2) A diagnosis of the mental condition of the defendant; (3) If the defendant suffers from a mental disease or defect, an opinion as to his capacity to understand the proceedings against him and to assist in his own defense; (4) When a notice of intention to rely on the defense of irresponsibility has been filed, an opinion as to the ability of the defendant to appreciate the criminality of his conduct or to conform his conduct to the requirements of law at the time of the criminal conduct charged; and (5) When directed by the court, an opinion as to the capacity of the defendant to have a particular state of mind which is an element of the offense charged.

Non-participation by defendant.

If the examination cannot be conducted by reason of the unwillingness of the defendant to participate therein, the report shall so state and shall include, if possible, an opinion as to whether such unwillingness of the defendant was the result of mental disease or defect.

HeinOnline -- 1967 vol. I 359 1967

Filing of report.

The report of the examination shall be filed (in triplicate) with the clerk of court, who shall cause copies to be delivered to the county attorney and to counsel for the defendant.

95-506. **Determination of Fitness to Proceed; Effect of Finding of Unfitness; Proceedings if Fitness Is Regained.**

Determination of fitness to proceed.

(a) When the defendant's fitness to proceed is drawn in question, the issue shall be determined by the court. If neither the county attorney nor counsel for the defendant contests the finding of the report filed pursuant to section 95-505, the court may make the determination on the basis of such report. If the finding is contested, the court shall hold a hearing on the issue. If the report is received in evidence upon such hearing, the parties shall have the right to summon and cross-examine the psychiatrists who joined in the report and to offer evidence upon the issue.

Determination of unfitness.

(b) If the court determines that the defendant lacks fitness to proceed, the proceeding against him shall be suspended, except as provided in subsection (c) of this section, and the court shall commit him to the custody of the superintendent of the Montana state hospital, to be placed in an appropriate institution of the state department of public institutions for so long as such unfitness shall endure. When the court, on its own motion or upon the application of the superintendent of the Montana state hospital, or the county attorney, or the defendant or his legal representative, determines, after a hearing if a hearing is requested, that the defendant has regained fitness to proceed, the proceeding shall be resumed. If, however, the court is of the view that so much time has elapsed since the commitment of the defendant that it would be unjust to resume the criminal proceedings, the court may dismiss the charge and may order the defendant to be discharged, or, subject to the law governing the civil commitment of persons suffering from mental disease or defect, order the defendant to be committed to an appropriate institution of the state department of public institutions.

Fitness regained.

(c) The fact that the defendant is unfit to proceed does not preclude any legal objection to the prosecution which is susceptible to fair determination prior to trial and without the personal participation of the defendant.

HeinOnline -- 1967 vol. I 360 1967

95-507. **Determination of Irresponsibility on Basis of Report; Access to Defendant by Psychiatrist of His Own Choice; Form of Expert Testimony When Issue of Responsibility is Tried.**

Determination of irresponsibility.

(a) If the report filed pursuant to section 95-505 finds that the defendant at the time of the criminal conduct charged suffered from a mental disease or defect which rendered him unable to appreciate the criminality of his conduct or to conform his conduct to the requirements of law, and the court, after a hearing if a hearing is requested by the attorney prosecuting or the defendant, is satisfied that such mental disease or defect was sufficient to exclude responsibility, the court on motion of the defendant shall enter judgment of acquittal on the ground of mental disease or defect excluding responsibility.

Psychiatrist of defendant's choice.

(b) When either the defendant or the state wishes the defendant to be examined by a qualified psychiatrist or other expert, selected by the one proposing the examination, such examiner shall be permitted to have reasonable access to the defendant for the purpose of such examination.

(c) Upon the trial, any psychiatrist who reported pursuant to section 95-505 may be called as a witness by the prosecution or by the defense. If the issue is being tried before a jury, the jury shall not be informed that the psychiatrist was designated by the court or by the superintendent of the Montana state hospital. Both the prosecution and the defense may summon any other qualified psychiatrist or other expert to testify, but no one who has not examined the defendant shall be competent to testify to an expert opinion with respect to the mental condition or responsibility of the defendant, as distinguished from the validity of the procedure followed by, or the general scientific propositions stated by another witness.

Form of expert testimony.

(d) When a psychiatrist or other expert who has examined the defendant testifies concerning his mental condition, he shall be permitted to make a statement as to the nature of his examination, his diagnosis of the mental condition of the defendant at the time of the commission of the offense charged and his opinion as to the ability of the defendant to appreciate the criminality

HeinOnline -- 1967 vol. I 361 1967

of his conduct or to conform his conduct to the requirements of law or to have a particular state of mind which is an element of the offense charged. He shall be permitted to make any explanation reasonably serving to clarify his diagnosis and opinion and may be cross-examined as to any matter bearing on his competency or credibility or the validity of his diagnosis or opinion.

95-508. **Legal Effect of Acquittal on the Ground of Mental Disease or Defect Excluding Responsibility; Commitment; Release or Discharge.**

Legal effect of acquittal on ground of mental disease—commitment.

(a) When a defendant is acquitted on the ground of mental disease or defect excluding responsibility, the court shall order him to be committed to the custody of the superintendent of the Montana state hospital to be placed in an appropriate institution for custody, care and treatment.

Release or discharge.

(b) If the superintendent of the Montana state hospital believes that a person committed to his custody, pursuant to paragraph (a) of this section, may be discharged or released on condition without danger to himself or others, he shall make application for the discharge or release of such person in a report to the court by which such person was committed and shall transmit a copy of such application and report to the county attorney of the county from which the defendant was committed. The court shall thereupon appoint at least two qualified psychiatrists to examine such person and to report within sixty days, or such longer period as the court determines to be necessary for the purpose, their opinion as to his mental condition. To facilitate such examinations and the proceedings thereon, the court may cause such person to be confined in any institution located near the place where the court sits, which may hereafter be designated by the superintendent of the Montana state hospital as suitable for the temporary detention of irresponsible persons.

(c) If the court is satisfied by the report filed pursuant to subdivision (b) of this section, and such testimony of the reporting psychiatrists as the court deems necessary that the committed person may be discharged or released on condition without danger to himself or others, the court shall order his discharge or his release on such conditions as the court determines to be neces-

HeinOnline -- 1967 vol. I 362 1967

sary. If the court is not so satisfied, it shall promptly order a hearing to determine whether such person may safely be discharged or released. Any such hearing shall be deemed a civil proceeding and the burden shall be upon the committed person to prove that he may safely be discharged or released. According to the determination of the court upon the hearing, the committed person shall thereupon be discharged or released on such conditions as the court determines to be necessary, or shall be recommitted to the custody of the superintendent of the Montana state hospital, subject to discharge or release only in accordance with the procedure prescribed above for a first hearing.

Recommitment.

(d) If, within five years after the conditional release of a committed person, the court shall determine, after hearing evidence, that the conditions of release have not been fulfilled and that for the safety of such person or for the safety of others his conditional release should be revoked, the court shall forthwith order him to be recommitted to the superintendent of the Montana state hospital, subject to discharge or release only in accordance with the procedure prescribed above for a first hearing.

Application for release.

(e) A committed person may make application for his discharge or release to the court by which he was committed, and the procedure to be followed upon such application shall be the same as that prescribed above in the case of an application by the superintendent of the Montana state hospital. However, no such application by a committed person need be considered until he has been confined for a period of not less than six months from the date of the order of commitment, and if the determination of the court be adverse to the application, such person shall not be permitted to file a further application until one year has elapsed from the date of any preceding hearing on an application for his release or discharge.

Statements for treatment inadmissible except on issue of mental condition.

95-509. **Statements for Purposes of Examination or Treatment Inadmissible Except on Issue of Mental Condition.** A statement made by a person subjected to psychiatric examination or treatment pursuant to sections 95-505, 95-506, 95-508 for the purposes of such examination or treatment shall not be admissible in evidence against him in any criminal proceeding on any issue other than that of his mental condition but it shall be admissible upon that issue, whether or not it would be otherwise

HeinOnline -- 1967 vol. I 363 1967

deemed a privileged communication unless such statement constitutes an admission of guilt of the crime charged.

Arrest.

CHAPTER 6. ARREST

95-601. **Definitions.**

Arrest defined.

(a) **Arrest Defined.** An arrest is taking a person into custody in the manner authorized by law.

Warrant of arrest.

(b) **Warrant of Arrest**: A Warrant of Arrest is a written order from a court directed to a peace officer, or to some other person specifically named, commanding him to arrest a person. This term includes the original warrant of arrest or a copy certified by the issuing court.

Summons.

(c) **Summons**: A summons is a written order issued by the court which commands a person to appear before a court at a stated time and place.

Notice to appear.

(d) **Notice to Appear**: A Notice to Appear is a written direction issued by a peace officer that a person appear before a court at a stated time and place to answer an offense set forth therein.

Method of arrest.

95-602. **Method of Arrest.**

(a) An arrest is made by an actual restraint of the person to be arrested, or by his submission to the custody of the person making the arrest.

(b) All necessary and reasonable force may be used in making an arrest, but the person arrested shall not be subject to any greater restraint than is necessary to hold or detain him.

(c) All necessary and reasonable force may be used to effect an entry into any building or property or part thereof to make an authorized arrest.

Issuance and service of arrest warrant upon complaint—form of complaint.

95-603. **Issuance and Service of Arrest Warrant Upon Complaint.**

(a) A complaint, as the basis of an arrest warrant, shall be in writing.

(b) When a complaint is presented to a court charging a person with the commission of an offense, the court shall examine upon oath the complainant and may also examine any witnesses.

HeinOnline -- 1967 vol. I 364 1967

(c) If it appears from the contents of the complaint and the examination of the complainant and other witnesses, if any, that there is probably cause to believe that the person against whom the complaint was made has committed an offense a warrant shall be issued by the court for the arrest of the person complained against. In the discretion of the court or upon the request of the county attorney, a summons instead of a warrant shall issue. More than one warrant or summons may issue on the same complaint.

Warrant of arrest—form.

(d) A warrant of arrest shall:

(1) Be in writing in the name of the State of Montana or in the name of a municipality if a violation of a municipal ordinance is charged;

(2) Set forth the nature of the offense;

(3) Command that the person against whom the complaint was made be arrested and brought before the court issuing the warrant, or if he is absent or unable to act before the nearest or most accessible court in the same county. If an arrest is made in a county other than the one in which the warrant was issued the arrested person shall be taken without unnecessary delay before the nearest and most accessible judge in the county where the arrest was made.

(4) Specify the name of the person to be arrested or if his name is unknown, shall designate such person by any name or description by which he can be identified with reasonable certainty;

(5) State the date when issued and the municipality or county where issued, and

(6) Be signed by the judge of the court with the title of his office.

Amount of bail.

(e) The warrant of arrest may specify the amount of bail.

Execution of warrants.

(f) The warrant shall be directed to all peace officers in the state. It shall be executed by a peace officer and may be executed in any county of the state. However, warrants issued for the violation of city ordinances cannot be executed outside the city limits, except as otherwise provided by sections 11-927 and 11-960.

HeinOnline -- 1967 vol. I 365 1967

Arrest with a warrant.

95-604. **Arrest With a Warrant.** When making an arrest by virtue of a warrant, the peace officer making the arrest shall inform the person to be arrested of his authority, of the intention to arrest him, of the cause of the arrest, and of the fact that a warrant has been issued for his arrest, except when he flees or forcibly resists before the officer making the arrest has an opportunity so to inform him, or when the giving of such information will imperil the arrest. The peace officer making the arrest need not have the warrant in his possession at the time of the arrest, but after the arrest, if the person arrested so requests, the warrant shall be shown to him as soon as practicable.

Procedure when warrant defective.

95-605. **Procedure When Warrant Defective.** No warrant of arrest shall be dismissed nor shall any person in custody for an offense be discharged from such custody because of technical irregularities not affecting the substantial rights of the accused.

Arrest without a warrant.

95-606. **Arrest Without a Warrant.** A peace officer or person making an arrest without a warrant must inform the person to be arrested of his authority, if any, of the intention to arrest him and the cause of the arrest, except when the person to be arrested is actually engaged in the commission of or in an attempt to commit an offense, or is pursued immediately after its commission, or after an escape, or when the giving of such information will imperil the arrest.

Time of making arrest.

95-607. **Time of Making Arrest.** An arrest may be made on any day and at any time of the day or night except that a person cannot be arrested in his home or private dwelling place, at night, for a misdemeanor committed at some other time and place unless upon the direction of a magistrate endorsed upon a warrant of arrest.

Arrest by a peace officer.

95-608. **Arrest by a Peace Officer.** A peace officer may arrest a person when:

(a) He has a warrant commanding that such person be arrested, or

(b) He believes, on reasonable grounds, that a warrant for the person's arrest has been issued in this state, or

(c) He believes, on reasonable grounds, that a felony warrant for the person's arrest has been issued in another jurisdiction, or

HeinOnline -- 1967 vol. I 366 1967

(d) He believes, on reasonable grounds, that the person is committing or has committed an offense.

95-609. **Assisting a Peace Officer.** Assisting a peace officer.

(a) A peace officer making a lawful arrest may command the aid of male persons over the age of eighteen.

(b) A person commanded to aid a peace officer shall have the same authority to arrest as that officer.

(c) A person commanded to aid a peace officer in making an arrest shall not be civilly liable for any reasonable conduct in aid of the officer.

95-610. **Release by Officer of Person Arrested.** A peace officer having custody of a person arrested without a warrant is authorized to release the person without requiring him to appear before a court when the officer is satisfied that there are no grounds for criminal complaint against the person arrested. Release by officer of person arrested.

95-611. **Arrest by a Private Person.** A private person may arrest another when: Arrest by a private person.

(a) He believes, on reasonable grounds, that an offense is being committed or attempted in his presence; or

(b) When a felony has in fact been committed and he believes, on reasonable grounds, that the person arrested has committed it.

95-612. **When Summons May Be Issued.** When summons may be issued.

(a) When authorized to issue a warrant of arrest a court may in lieu thereof issue a summons.

(b) The summons shall:

(1) Be in writing in the name of the State of Montana;

(2) State the name of the person summoned and his address, if known;

(3) Set forth the nature of the offense;

(4) State the date when issued, and the municipality or county where issued;

(5) Be signed by the judge of the court with the title of his office; and

HeinOnline -- 1967 vol. I 367 1967

(6) Command the person to appear before a court at a certain time and place.

(c) The summons may be personally served in the same manner as the summons in a civil action.

Effect of not answering summons.

95-613. **Effect of Not Answering Summons.** Upon failure of the person summoned to appear, the magistrate shall issue a warrant of arrest. If after issuing a summons the magistrate becomes satisfied that the person summoned will not appear as commanded by the summons he may at once issue a warrant of arrest.

Notice to appear.

95-614. **Notice to Appear.**

(a) Whenever a peace officer is authorized to arrest a person without a warrant, he may instead issue to such person a notice to appear.

(b) The notice shall:

(1) Be in writing;

(2) State the name of the person and his address, if known;

(3) Set forth the nature of the offense;

(4) Be signed by the officer issuing the notice; and

(5) Direct the person to appear before a court at a certain time and place.

(c) Upon failure of the person to appear, a summons or warrant of arrest may issue.

Offenses committed by corporations.

95-615. **Offenses Committed by Corporations.**

(a) Upon a charge filed against a corporation for the commission of an offense the court shall issue a summons setting forth the nature of the offense and commanding the corporation to appear before the court at a certain time and place.

(b) The summons for the appearance of a corporation may be served in the manner provided for service of summons upon a corporation in a civil action.

(c) If, after being summoned, the corporation does not appear, a plea of not guilty shall be entered by the court having jurisdiction to try the offense for which the summons was issued, and such court shall proceed to trial and judgment without further process.

HeinOnline -- 1967 vol. I 368 1967

95-616. **Persons Exempt From Arrest.** Persons exempt from arrest.

(a) Electors shall, in all cases except treason, felony or breach of the peace, be privileged from arrest during their attendance at election, and in going to and returning from the same.

(b) Senators and representatives shall, in all cases, except felony or breach of the peace, be privileged from arrest during the sessions of the state legislature, and in going to and returning from the same.

(c) The militia shall in all cases, except treason, felony or breach of the peace, be privileged from arrest during their attendance at musters and election, and in going to and returning from the same.

(d) Judges, attorneys, clerks, sheriffs, and other court officers shall be privileged from arrest while attending court and while going to and returning from court.

95-617. **Magistrate May Order Arrest.** A magistrate may orally order a peace officer or private person to arrest any one committing or attempting to commit a public offense in the presence of such magistrate. Magistrate may order arrest.

95-618. **Road Blocks.** Road blocks. "Temporary road block."

(a) **Definition.** For the purpose of this act, a "temporary roadblock" means any structure, device, or means used by the duly elected or appointed law-enforcement officers of this state, and their deputies, for the purpose of controlling all traffic through a point on the highway whereby all vehicles may be slowed or stopped.

(b) **Authority to establish roadblocks.** The duly elected or appointed law-enforcement officers of this state, and their deputies, are hereby authorized to establish, in their respective jurisdictions, or in other jurisdictions within the state, temporary roadblocks on the highways of this state for the purpose of identifying drivers, and apprehending persons wanted for violation of the laws of this state, or of any other state, or of the United States, who are using the highways of this state. Authority.

(c) **Minimum requirements.** For the purpose of warning and protecting the traveling public, the minimum requirements to be met by such officers establishing temporary roadblocks, if time and circumstances allow, are: Minimum requirements.

HeinOnline -- 1967 vol. I 369 1967

1. The temporary roadblock must be established at a point on the highway clearly visible at a distance of not less than one hundred (100) yards, in either direction.

2. At the point of the temporary roadblock, a sign shall be placed on the center line of the highway displaying the word "stop" in letters of sufficient size and luminosity to be readable at a distance of not less than fifty (50) yards, in both directions, either in daytime or darkness.

3. At the same point of the temporary roadblock, at least one red light, which shall be a flashing or intermittent beam of light, must be placed at the side of the roadway clearly visible to the oncoming traffic, at a distance of not less than one hundred (100) yards.

4. At a distance of not less than two hundred (200) yards from the point of the temporary roadblock, warning signs must be placed at the side of the highway, containing any wording of sufficient size and luminosity, to warn the oncoming traffic that a "police stop" lies ahead. A burning beam light, flare, or a lantern must be placed near such signs for the purpose of attracting the attention of approaching drivers during hours of darkness. A red flag may be used for the same purpose during daylight hours.

Existing law preserved.

(d) **Existing law preserved.** Nothing in this act shall be deemed to limit, or encroach upon the existing authority of Montana law-enforcement officers in the performance of their duties involving traffic control.

Penalty.

(e) **Penalty.** Any person who shall proceed or travel through a roadblock without subjecting himself to the traffic control so established shall be guilty of a misdemeanor, and shall be punished by a fine of not more than five hundred dollars ($500.00), or by imprisonment in the county jail for not more than six (6) months, or by both fine and imprisonment.

Close pursuit—arrest by officers of another state.

95-619. **Close Pursuit—Power of Arrest by Officers of Another State.**

(a) Any peace officer of another state of the United States, who enters this state in close pursuit and continues within this state in such close pursuit of a person in order to arrest him, shall have the same authority to

HeinOnline -- 1967 vol. I 370 1967

arrest and hold in custody such person, as peace officers of this state have to arrest and hold in custody a person on the ground that he has committed a crime in this state.

Hearing.

(b) **Hearing as to Locality of Arrest.** If an arrest is made in this state by an officer of another state in accordance with the provisions of section 95-619(a), he shall, without unnecessary delay, take the person arrested before a judge of a court of record who shall conduct a hearing for the sole purpose of determining if the arrest was in accordance with the provisions of section 95-619(a) and not of determining the guilt or innocence of the arrested person. If the judge determines that the arrest was in accordance with such provisions, he shall commit the person arrested to the custody of the officer making the arrest, who shall without unnecessary delay take him to the state from which he fled. If the judge determines that the arrest was unlawful, he shall discharge the person arrested.

(c) **Construction of Act.** Section 95-619(a) shall not be construed so as to make unlawful any arrest in this state which would otherwise be lawful.

"State."

(d) **"State" defined.** For the purpose of this act the word state shall include the District of Columbia.

(e) **Certification of Act.** Upon the passage and approval by the governor of this act, it shall be the duty of the secretary of the state (or other officer) to certify a copy of this act to the executive department of each of the states of the United States.

Uniform act on close pursuit.

(f) **Act, how cited.** This act may be cited as the Uniform Act on Close Pursuit.

CHAPTER 7. SEARCH AND SEIZURE

Search and seizure. When authorized.

95-701. **Searches and Seizures—When Authorized.** A search of a person, object or place may be made and instruments, articles or things may be seized in accordance with the provisions of this chapter when the search is made:

(a) As an incident to a lawful arrest.

(b) With the consent of the accused or of any other person who is lawfully in possession of the object or place to be searched, or who is believed upon reasonable

HeinOnline -- 1967 vol. I 371 1967

cause to be in such lawful possession by the person making the search.

(c) By the authority of a valid search warrant.

(d) Under the authority and within the scope of a right of lawful inspection granted by law.

Scope of search without warrant.

95-702. **Scope of Search Without Warrant.** When a lawful arrest is effected a peace officer may reasonably search the person arrested and the area within such person's immediate presence for the purpose of:

(a) Protecting the officer from attack, or

(b) Preventing the person from escaping, or

(c) Discovering and seizing the fruits of the crime, or

(d) Discovering and seizing any persons, instruments, articles or things which may have been used in the commission of, or which may constitute evidence of, the offense.

Search warrant defined.

95-703. **Search Warrant Defined.** A search warrant is an order in writing, in the name of the state, signed by a judge, particularly describing the thing or place to be searched and the instruments, articles or things to be seized, directed to a peace officer, commanding him to search for personal property and bring it before the judge.

Grounds for search warrant.

95-704. **Grounds for Search Warrant.** Any judge may issue a search warrant upon the written application of any person that an offense has been committed, made under oath or affirmation before him which:

(a) States facts sufficient to show probable cause for issuance of the warrant.

(b) Particularly describes the place or things to be searched, and

(c) Particularly describes the things to be seized.

Scope of search with warrant.

95-705. **Scope of Search With Warrant.** A search warrant may authorize the seizure of the following:

(a) Contraband,

(b) Any instruments, articles or things which are the fruits of, have been used in the commission of, or which may constitute evidence of, any offense,

HeinOnline -- 1967 vol. I 372 1967

(c) Any person who has been kidnapped in violation of the laws of this state, or who has been kidnapped in another jurisdiction and is now concealed within this state.

Filing of application.

95-706. **Filing of Application.** The application on which the warrant is issued shall be retained by the judge but need not be filed with the clerk of the court nor with the court if there is no clerk, until the warrant has been executed or has been returned "not executed".

By whom served.

95-707. **By Whom Served.** A search warrant may in all cases be served by any of the officers mentioned in its direction, but by no other person except in aid of the officer on his requiring it, he being present and acting in its execution.

Service and execution of search warrants.

95-708. **Service and Execution of Search Warrants.** Service of a search warrant is made by exhibiting the original warrant at the place to be searched. If the warrant is executed, a duplicate copy, and a receipt for all articles taken shall be left with any person from whom any instruments, articles or things are seized, or, if no person is available, the copy and receipt shall be left at the place from which the instruments, articles or things were seized. Failure to give or leave such a receipt shall not render the evidence inadmissible in a trial.

Use of force in execution of search warrant.

95-709. **Use of Force in Execution of Search Warrant.** All necessary and reasonable force may be used to execute a search warrant or to effect an entry into any building or property or part thereof to execute a search warrant.

Detention and search of persons on premises.

95-710. **Detention and Search of Persons on Premises.** In the execution of the warrant the person executing the same may reasonably detain and search any person in the place at the time:

(a) To protect himself from attack, or

(b) To prevent the disposal or concealment of any instruments, articles or things particularly described in the warrant.

When warrant may be executed.

95-711. **When Warrant May Be Executed.** The warrant may be executed at any time of any day or night. The warrant shall be executed within ten days from the time of issuance. Any warrant not executed within

HeinOnline -- 1967 vol. I 373 1967

such time shall be void and shall be returned to the court or the judge issuing the same as "not executed".

Return to court of things seized under search warrant.

95-712. **Return to Court of Things Seized Under Search Warrant.** The return of the warrant and all instruments, articles and things seized shall be made promptly before the judge who issued the warrant, or if he is absent or unavailable, before the nearest available judge and shall be accompanied by a written inventory of any property taken, verified by the person executing the warrant. The judge shall, upon request, deliver a copy of the inventory to the person from whom or from whose premises the property was taken and to the applicant for the warrant.

Custody and disposition of things seized under search warrant.

95-713. **Custody and Disposition of Things Seized Under Search Warrant.** The judge before whom the instruments, articles or things are returned shall enter an order providing for their custody or appropriate disposition pending further proceedings.

Custody and disposition of things seized without search warrant.

95-714. **Custody and Disposition of Things Seized Without Search Warrant.** Any peace officer seizing any instruments, articles or things must give a receipt to the person from whose possession they are taken, but failure to give such a receipt shall not render the evidence seized inadmissible upon a trial.

If an arrest has been made all instruments, articles or things seized on a search without warrant shall be delivered to the judge before whom the person arrested is taken, and thereafter handled and disposed of in accordance with Sections 95-712, 95-713 and 95-715. If the person arrested is released without a charge being preferred against him, all instruments, articles or things seized from him, other than contraband, shall be returned to him upon release.

If no arrest has been made such instruments, articles or things may be retained in the custody of the officer making the seizure for a time sufficient for investigation of the supposed crime, after which they must be delivered to the proper judge for disposition in accordance with sections 95-712, 95-713 and 95-715, or returned to the person from whom they were taken.

Return of property seized.

95-715. **Return of Property Seized.** Any person claiming the right to possession of property seized as evidence

HeinOnline -- 1967 vol. I 374 1967

may apply to the judge to whom it has been delivered for its return. The judge shall give such notice as he deems adequate to the county attorney and all persons who have or may have an interest in the property and shall hold a hearing to hear all claims to its true ownership. If the right to possession is proved to the judge's satisfaction, he shall order the property, other than contraband, returned if:

(a) The property is not needed as evidence or, if needed, satisfactory arrangements can be made for its return for subsequent use as evidence, or

(b) All proceedings in which it might be required have been completed.

Disposition of unclaimed property.

95-716. **Disposition of Unclaimed Property.** If property seized as evidence is not claimed within six (6) months of completion of the case for which it was seized, and if, after proper inquiry, the judge cannot ascertain or locate any person entitled to its possession, he must order the property to be sold by the sheriff. The proceeds from such sale, after deduction of the costs of storage and preservation of the property, must be paid into the county treasury.

When search and seizure not legal.

95-717. **When Search and Seizure Not Illegal.** No search and seizure, whether with or without warrant, shall be held to be illegal as to a defendant if:

(a) The defendant has disclaimed any right to, or interest in the place or object searched or the instruments, articles or things seized, or

(b) No right of the defendant has been infringed by the search and seizure, or

(c) Any irregularities in the proceedings do not affect the substantial rights of the accused.

Admissibility in other proceedings.

95-718. **Admissibility in other proceedings.** Instruments, articles or things lawfully seized are admissible as evidence upon any prosecution or proceeding whether or not the prosecution or proceeding is for the offense in connection with which the search was originally made.

CHAPTER 8. THE OFFICE OF THE CORONER

Office of the coroner.

95-801. **The office of the coroner.** When a coroner is informed that a death or stillbirth was caused by other

HeinOnline -- 1967 vol. I 375 1967

than natural causes or that a death or stillbirth has occurred under circumstances such as to afford a reasonable ground to suspect that the death is the result of criminal conduct, or when no physician or surgeon, licensed in the state of Montana, will sign a death certificate, the coroner shall make an investigation thereof. It shall be the duty of every person acquiring knowledge of such death to report the same forthwith to the coroner of the county in which death apparently occurred. In cases where criminal conduct is suspected, the coroner shall notify one or more law enforcement agencies having jurisdiction. The law enforcement agencies so notified shall have the responsibility to investigate the case.

When coroner to have autopsy.

95-802. **Coroner to have autopsy—when.** If in the opinion of the coroner an autopsy is advisable, he shall order one and shall retain a physician or pathologist to perform it. A full record of the facts found shall be made on a form provided by The Montana State Board of Health in duplicate, the coroner retaining one copy and delivering the other to the county attorney. The right to conduct an autopsy shall include the right to retain such specimens as the physician or pathologist performing the autopsy deems necessary. Performance of autopsies is within the discretion of the coroner except that the county attorney or attorney general may require one. In ordering an autopsy the coroner shall order the body to be exhumed if it has been interred.

When coroner to hold inquest.

95-803. **Coroner to hold inquest—when.** An inquest is a formal inquiry into the causes of and circumstances surrounding the death of any person. The coroner shall hold an inquest only if requested to do so by the county attorney of the county in which death occurred or by the county attorney of the county in which the acts or events causing death occurred. The coroner shall conduct the inquest with the aid and assistance of the county attorney. For holding such inquest, the coroner must summon a jury of not more than nine (9) persons, qualified by law to serve as jurors. Such inquest is to be held in accordance with sections 95-804 through 95-809 of this chapter.

Jurors to be sworn.

95-804. **Jurors to be sworn.** When six or more of the jurors attend, they must be sworn by the coroner to inquire who the person was, and when, where, and by what means he came to his death, and into the circumstances

HeinOnline -- 1967 vol. I 376 1967

attending his death; and to render a true verdict thereon, according to the evidence offered to them, or arising from the inspection of the body.

Witnesses to be subpoenaed.

95-805. **Witnesses to be subpoenaed.** A coroner may issue subpoenas for witnesses, returnable forthwith; or at such time and place as he may appoint, which may be served by any competent person. He must summon and examine as witnesses every person who, in his opinion, or that of the jury, has any knowledge of the facts, and may summon a surgeon or physician to inspect the body, and give a professional opinion as to the cause of the death.

Witnesses compelled to attend.

95-806. **Witness compelled to attend.** A witness served with a subpoena may be compelled to attend and testify, or be punished as upon a subpoena issued by a justice of the peace.

Verdict of jury.

95-807. **Verdict of jury in writing, what to contain.** After inspecting the body and hearing the testimony, the jury must render its verdict which shall be by majority vote, and certify the same in writing, signed by them and setting forth who the deceased person is, and when, where, and by what means he came to his death; and if he was killed, or his death occasioned by the act of another by criminal means, who committed the act.

Testimony.

95-808. **Testimony in writing and where filed.** The testimony of the witnesses examined before the coroner's jury must be reduced to writing by the coroner, or under his direction, and forthwith filed by him, with the inquisition, in the office of the clerk of the district court of the county. The coroner must order the inquest proceedings recorded and transcribed by a qualified stenographer and such recording and transcribing expenses shall be paid by the county upon claims duly rendered and certified to by the coroner in the same manner as other claims against the county are paid.

Inquest shall be public.

95-809. **Inquest shall be public.** If an inquest is held the proceedings shall be public.

Property found on body—to whom delivered.

95-810. **Property found on body—to whom delivered.** Any property found with or upon the person of the deceased which is not needed as evidence shall be turned over by the county coroner to the public administrator, to be held until disposed of according to law. Any property needed as evidence shall be turned over to the appropriate investigative authority.

HeinOnline -- 1967 vol. I 377 1967

Register.

95-811. **Must keep register.** The county coroner shall keep an official register, in which he must enter the date of holding all inquests, the cause and circumstances of death, if known, and the name of the deceased, when known, and when not, such description of the deceased as may be sufficient for identification.

Jurisdiction of coroner.

95-812. **Jurisdiction of coroner.** When death occurs as a direct result of acts or events which occurred in another county, the coroner of either county shall have jurisdiction. If a conflict of jurisdiction should arise, or should said coroners fail to act, the coroner of the county where the death occurred shall have the primary jurisdiction.

Liability of mortuary or physician.

95-813. **Liability of a mortuary or physician.** No person or firm owning a mortuary, or any person employed in such a mortuary, shall be liable for the acts of the coroner performed in the removal of any body to a mortuary or during the course of an autopsy on such body. No criminal or civil action shall arise against a licensed physician for performing an autopsy authorized by this act.

Coroner shall have needed assistance.

95-814. **The coroner shall have needed assistance.** The county commissioners are authorized to provide and pay for such laboratory facilities, and other technical and clerical assistance as may be required by the county coroner. The coroner, with the approval of the county commissioners, may appoint one or more deputy coroners.

Initial appearance of arrested person.

CHAPTER 9.

INITIAL APPEARANCE OF ARRESTED PERSON

Duty of person who has made arrest.

95-901. **Duty of person who has made an arrest.**

(a) Any person making an arrest under a warrant shall take the arrested person without unnecessary delay before the judge issuing the warrant, or if he is absent or unable to act, before the nearest or most accessible judge of the same county. If an arrest is made in a county other than the one in which the warrant was issued the arrested person shall be taken without unnecessary delay before the nearest and most accessible judge in the county where the arrest was made.

(b) Any person making an arrest without a warrant shall take the arrested person without unnecessary delay before the nearest or most accessible judge in the same

HeinOnline -- 1967 vol. I 378 1967

county and a complaint, stating the charges against the arrested person, shall be filed forthwith.

95-902. **Duty of the court.** The judge shall inform the defendant: Duty of the court.

(a) Of the charge against him;

(b) Of his right to counsel;

(c) Of his right to have counsel assigned by a court of record, in accordance with the provisions of section 95-1001;

(d) That he is not required to make a statement and that any statement made by him may be offered in evidence at his trial;

(e) Admit the defendant to bail in accordance with the provisions of this code.

After the initial appearance a justice of the peace court shall, within a reasonable time, hold a preliminary examination unless the defendant waives a preliminary examination or the district court has granted leave to file an information or an indictment has been returned, or the case is triable in justice court.

CHAPTER 10. RIGHT TO COUNSEL

Right to counsel.

95-1001. **Right to counsel.** Every defendant brought before the court must be informed by the court that it is his right to have counsel before proceeding and must be asked if he desires the aid of counsel. The defendant, if charged with a felony, must be advised that counsel will be furnished at state expense if he is unable to employ counsel. If the offense charged is a felony and if the defendant desires counsel and is unable to employ counsel a court of record must assign counsel to defend him. If the offense charged is a misdemeanor and if the defendant desires counsel and is unable to employ counsel a court of record, in the interest of justice, may assign counsel to defend him.

95-1002. **Waiver of counsel.** A defendant may waive his right to counsel except that in all felony cases where the defendant is under 18 years of age the defendant shall be represented by counsel at every stage of the proceedings. Waiver of counsel.

HeinOnline -- 1967 vol. I 379 1967

Duration of appointment.

95-1003. **Duration of appointment.** Where counsel has been assigned, such assignment shall be effective until final judgment, including any proceeding upon direct appeal, unless relieved by order of the court.

Appointment after trial.

95-1004. **Appointment after trial.** Any court of record may assign counsel to defend any defendant, petitioner, or appellant in any post conviction criminal action or proceeding if he desires counsel and is unable to employ counsel.

Remuneration of appointed counsel.

95-1005. **Remuneration of appointed counsel.** Whenever, in a criminal action or proceeding, an attorney at law represents or defends any person by order of the court, on the ground that the person is financially unable to employ counsel, such attorney shall be paid for his services such sum as a district court or justice of the state supreme court certifies to be a reasonable compensation therefor and shall be reimbursed for reasonable costs incurred in the criminal proceeding. Such costs shall be chargeable to the county in which the proceeding arose.

Public defender's office.

95-1006. **Public defender's office.** Any county through its board of county commissioners, may provide for the creation of a public defender's office and the appointment of a salaried public defender and such assistant public defenders as may be necessary to satisfy the legal requirements in providing counsel for defendants unable to employ counsel. The costs of such office shall be at county expense.

Bail.

CHAPTER 11. BAIL

95-1101. **Purpose.** Bail is the security given for the purpose of insuring the presence of the defendant in a pending criminal proceeding.

Who may admit to bail.

95-1102. **Who may admit to bail.**

(a) Any judge may admit any defendant properly appearing before him in such proceeding to bail. When bound over to any court or judge having jurisdiction of the offense charged, bail shall be continued provided the court or judge having jurisdiction may increase, reduce or substitute bail. On appeal, any judge before whom the trial was had, or any judge having the power to issue a writ of habeas corpus, may admit the defendant to bail.

HeinOnline -- 1967 vol. I 380 1967

(b) Upon allowance and acceptance of bail the defendant, if he is in custody, must be discharged.

Setting and accepting bail in minor offenses.

95-1103. **Setting and accepting bail in minor offenses.** A justice of the peace or police judge may in his discretion establish and post a schedule of cash bail for offenses not amounting to a felony. A peace officer may accept bail in behalf of the justice of the peace or police judge in accordance with the schedule. In the event the peace officer accepts bail, he shall give a signed receipt to the offender setting forth the bail received. The peace officer shall then deliver the bail to the justice of the peace or police judge before whom the offender is to appear, and the justice of the peace or police judge shall give a receipt to the peace officer for the bail delivered.

Setting and accepting bail under a warrant of arrest.

95-1104 **Setting and accepting bail under a warrant of arrest.** A peace officer may accept cash bail in behalf of a judge where the warrant of arrest specifies the amount of bail. In the event the peace officer accepts bail, he shall give a signed receipt to the offender setting forth the bail received. The peace officer shall then deliver the bail to the justice of the peace or police judge before whom the offender is to appear, and the justice of the peace or police judge shall give a receipt to the police officer for the bail delivered.

Giving bail before another court or judge.

95-1105. **Giving bail before another court or judge.** The defendant, when arrested for a bailable offense must be taken without unnecessary delay before the nearest or most accessible judge in order that bail may be fixed. If the defendant is brought before a judge other than the court in which the charge is pending, the judge must establish and accept bail and set the time for the appearance of the defendant in the court in which the charge is pending. Upon acceptance of bail, the judge must deliver the bail without delay to the court in which the charge is pending.

Release on own recognizance.

95-1106. **Release on own recognizance.** Any person in custody, if otherwise eligible for bail, may be released on his personal recognizance subject to such conditions as the court may reasonably prescribe to assure his appearance when required. Any person released as herein provided shall be fully apprised by the court of the penalty provided for failure to comply with the terms of his recognizance.

HeinOnline -- 1967 vol. I 381 1967

Issuance of warrant.

95-1107. **Issuance of warrant.**

(a) Upon failure to comply with any condition of a bail or recognizance, the court having jurisdiction at the time of such failure may, in addition to any other action provided by law, issue a warrant for the arrest of the person at liberty on bail or on his own recognizance.

(b) On verified application by the state, setting forth facts or circumstances constituting a breach or threatened breach of any of the conditions of the bail or a threat or an attempt to influence the pending proceeding, the court may issue a warrant for the arrest of the defendant.

(c) Upon the arrest, the defendant shall be brought before the court without unnecessary delay and the court shall conduct a hearing and determine bail in accordance with section 95-1111.

Bailable offenses.

95-1108. **Bailable offenses.**

(a) All persons shall be bailable before conviction, except when death is a possible punishment for the offense charged and the proof is evident or the presumption great that the person is guilty of the offense charged.

(b) On the hearing of an application for admission to bail made before or after indictment or information for a capital offense, the burden of showing that the proof is evident or the presumption great that the defendant is guilty of the offense is on the state.

Bail after conviction.

95-1109. **Bail after conviction.** After conviction of an offense not punishable by death, a defendant who intends to appeal may be admitted to bail:

(a) As a matter of right, from a judgment imposing a fine only; or any judgment rendered by a justice or police court.

(b) As a matter of discretion in all other cases.

Determining the amount of bail.

95-1110. **Determining the amount of bail.** In all cases that bail is determined to be necessary, bail must be reasonable in amount and the amount shall be:

(a) Sufficient to assure compliance with the conditions set forth in the bail;

(b) Not oppressive;

HeinOnline -- 1967 vol. I 382 1967

(c) Commensurate with the nature of the offense charged;

(d) Considerate of the financial ability of the accused;

(e) Considerate of the defendant's prior record, employment status, and family background.

95-1111. **Reduction, increase, revocation or substitution of bail.** Modification of bail.

(a) Upon application by the state or the defendant the court before which the proceeding is pending may increase, or reduce the amount of bail, substitute one bail for another or alter the conditions of the bail, or revoke bail.

(b) Reasonable notice of such application must be given to the opposing parties or their attorneys by the applicant after verdict of guilty and before judgment.

95-1112. **How bail is to be furnished.** Bail may be furnished by the defendant in any of the following ways: How bail is to be furnished.

(a) By a deposit, with the clerk of the court, of an amount equal to the required bail, of cash, stocks, or bonds, or any combination thereof approved by the judge; or

(b) By real estate situated in this state with unencumbered equity not exempt owned by the accused or sureties worth double the amount of bail; or

(c) By a written undertaking executed by the defendant and by two sufficient sureties; or

(d) By a commercial surety bond executed by the defendant and by a qualified agent for and on behalf of such surety company.

95-1113. **Qualifications of bail.** Qualifications of bail.

(a) If the bail is stock or bonds or both, the accused or sureties shall file a sworn schedule which shall contain a list of the stocks and bonds deposited describing each in sufficient detail that it may be identified and the market value of each stock or bond and the total market value of the stocks or bonds listed.

(b) If the bail is real estate, the accused or sureties shall file a sworn schedule which shall contain a legal de-

HeinOnline -- 1967 vol. I 383 1967

scription of the real estate, a description of any and all encumbrances on the real estate including the amount of each and the holder thereof, and the market value of the unencumbered equity owned by the affiant.

A certified copy of the schedule of real estate shall be filed immediately by the court in the office of the clerk and recorder of the county in which the property is situated, and the state shall have a lien on such real estate from the time the copies are filed. The clerk and recorder shall enter, index and record such schedules without requiring any advance fee, which fee shall be taxed as costs in the proceeding and paid out of such costs when collected.

(c) If the bail is a written undertaking with sureties, each surety must be a resident or freeholder within the state.

They must each be worth the amount specified in the undertaking, exclusive of property exempt from execution; but the court or magistrate, on taking bail, may allow more than two sureties to justify severally in amounts less than that expressed in the undertaking if the whole justification be equivalent to that of sufficient bail.

(d) If the bail is a commercial surety bond, it may be so done by any domestic or foreign surety company which is qualified to transact surety business in this state.

Bail, how to justify.

95-1114. **Bail, how to justify.** The sureties must, in all cases, justify by sworn affidavit that they each possess the qualifications provided in the preceding section. The court may further examine the sufficiency of the bail, upon oath, in such manner as it may deem proper. In all cases the state may challenge the bail or the sufficiency of the sureties.

Surrender of defendant.

95-1115. **Surrender of defendant.** At any time before the forfeiture of bail, the defendant may surrender himself to the officer to whose custody he was committed at the time of giving bail.

At any time before the forfeiture of bail, the sureties or surety company may surrender the defendant to the officer to whose custody he was committed and for this purpose may, themselves, arrest the defendant or by writ-

HeinOnline -- 1967 vol. I 384 1967

ten authority endorsed on a certified copy of the undertaking may empower any person of suitable age and discretion to do so.

The officer must detain the defendant in his custody as upon commitment and shall file a certificate in the court having jurisdiction of the defendant, acknowledging the surrender. Such court may then order the bail exonerated.

95-1116. **Conditions of bail, when performed — when not performed.**

Conditions of bail—when performed or not performed.

(a) When the conditions of bail have been performed and the accused has been discharged from his obligations in the cause, the court shall return to him or his sureties the deposit of any cash, stocks or bonds. If the bail is real estate, the court shall notify, in writing, the registrar of titles or recorder of deeds and the lien of the bail bond on the real estate shall be discharged. If the bail is a written undertaking or a commercial surety bond, it shall be discharged and the sureties exonerated.

(b) If the accused does not comply with the conditions of the bail bond, the court having jurisdiction shall enter an order declaring the bail to be forfeited.

If such forfeiture is declared by a district court, notice of such order of forfeiture shall be mailed forthwith by the clerk of the court to the accused and his sureties at their last known address.

(c) If at any time within thirty (30) days after the forfeiture the defendant or his bail appear and satisfactorily excuse his negligence or failure to comply with the conditions of the bail, the court, in its discretion, may direct the forfeiture of the bail to be discharged upon such terms as may be just.

If such forfeiture is declared by a district court and if the forfeiture is not discharged as provided in this section, the court shall enter judgment for the state against the accused and his sureties for the amount of the bail and costs of the proceedings.

95-1117. **Disposition of judgment and execution.**

Disposition of judgment and execution

(a) If judgment be rendered or the forfeiture not discharged, and the defendant has deposited money as bail, the court with whom it is deposited must, immediately

HeinOnline -- 1967 vol. I 385 1967

after receiving notice of said judgment or order of forfeiture, pay over the money deposited to the treasury of the city or county wherein the bail was taken.

(b) When judgment is entered in favor of the state, or the order of forfeiture is not discharged on any bail, execution may be issued forthwith for levy on stocks or bonds deposited with the court or upon the real estate described in the bail schedule. Such stocks, bonds and real estate shall be sold in the same manner as in execution sales in civil actions and the proceeds of such sale shall be used to satisfy all court costs and prior encumbrances, if any, and from the balance a sufficient sum to satisfy the judgment or forfeiture shall be paid into the treasury of the city or county wherein the bail bond was taken. The balance shall be returned to the owner. The real estate so sold may be redeemed in the same manner as real estate may be redeemed after execution sales in civil actions.

(c) When judgment is entered in favor of the state and against the sureties or the surety company or when the forfeiture has not been discharged, execution may be issued against the sureties or the surety company in the same manner as executions in civil actions.

Conditions of bail.

95-1118. **Conditions of bail.**

(a) If a person is admitted to bail before conviction, the conditions of bail bond shall be that he will appear to answer in the court having jurisdiction on a day certain and thereafter as ordered by the court until discharged on final order of the court and not depart this state without leave, and subject to any other conditions as the court may reasonably prescribe to assure his appearance when required.

(b) If the defendant is admitted to bail after conviction, the conditions of bail bond shall be that:

(1) He will duly prosecute his appeal;

(2) He will appear at such time and place as the court may direct;

(3) He will not depart this state without leave of the court; and

HeinOnline -- 1967 vol. I 386 1967

(4) If the judgment is affirmed or the cause reversed and remanded for a new trial, he will forthwith surrender to the officer from whose custody he was bailed.

Bail on a new trial.

95-1119. **Bail on a New Trial.** If the judgment of conviction is reversed and the cause remanded for a new trial, the trial court may order that the bail stand pending such trial, substitute, reduce, or increase bail.

Persons prohibited from furnishing bail security.

95-1120. **Persons Prohibited From Furnishing Bail Security.** No attorney at law and no official authorized to admit another to bail shall act as surety or furnish bail.

Sureties for guaranteed arrest bond certificates.

95-1121. **Sureties for Guaranteed Arrest Bond Certificates—Filing of Undertaking—Guaranteed Arrest Bond Certificate.**

Filing of undertaking.

(a) Any domestic or foreign surety company which has qualified to transact surety business in this state may, in any year, become surety in an amount not to exceed one hundred dollars ($100.00) with respect to any guaranteed arrest bond certificates issued in such year by an automobile club or association or by an insurance company authorized to write automobile liability insurance within this state, by filing with the commissioner of insurance an undertaking thus to become surety.

(b) Such undertaking shall be in form to be prescribed by the commissioner and shall state the following:

(1) The name and address of the automobile club or clubs, automobile association, or insurance company or companies, or associations with respect to the guaranteed arrest bond certificates of which the surety company undertakes to be surety.

(2) The unqualified obligation of the surety company to pay the fine or forfeiture in an amount not to exceed one hundred dollars ($100.00) of any person who, after posting a guaranteed arrest bond certificate with respect to which the surety company has undertaken to be surety, fails to make the appearance to guarantee which the guaranteed arrest bond certificate was posted.

Guaranteed arrest bond certificate.

(c) The term guaranteed arrest bond certificate, means any printed card or other certificate issued by an automobile club, association or insurance company, to any of its members or insureds, which said card or certificate is signed by such member or insured and contains a

HeinOnline -- 1967 vol. I 387 1967

printed statement that such automobile club, association, or insurance company and a surety company, or an insurance company authorized to transact both automobile liability insurance and surety business in the State of Montana, guarantee the appearance of the person whose signature appears on the card or certificate and that will, in the event of failure of such person to appear in court at the time of trial, pay any fine or forfeiture imposed on such person in an amount not to exceed one hundred dollars ($100.00).

Violations of motor vehicle laws—posting of arrest bond in lieu of cash.

95-1122. **Violations of Motor Vehicle Laws—Posting of Guaranteed Arrest Bond Certificate in Lieu of Cash.** Any guaranteed arrest bond certificate with respect to which a surety company has become surety or a guaranteed arrest bond certificate issued by an insurance company authorized to transact both automobile liability insurance and surety business within this state, as provided in section 95-1121, hereof, shall, when posted by the person whose signature appears thereon, be accepted in lieu of cash bail in an amount not to exceed one hundred dollars ($100.00) as a bail bond to guarantee the appearance of such person, in any court, including municipal courts, in this state, at such time as may be required by the court, when such person is arrested for violation of any motor vehicle law of this state or ordinance of any municipality in this state (except for the offense of driving while intoxicated or for any felony) committed prior to the date of expiration shown on such guaranteed arrest bond certificate so posted as a bail bond in any court in this state shall be subject to the forfeiture and enforcement provisions with respect to bail bonds posted in criminal cases as provided by law, and that any such guaranteed arrest bond certificate posted as bail bond in any municipal court in this state shall be subject to the forfeiture and enforcement provisions of the chapter or ordinance of the particular municipality pertaining to bail bonds posted.

Certification and withdrawal of sureties.

95-1123. **Certification of Names of Sureties—Withdrawal by Surety Company.** The commissioner of insurance shall certify to each justice of the peace, police magistrate and district judge the names of surety companies who have become sureties with respect to guaranteed arrest bond certificates, and shall likewise immediately notify such official upon the withdrawal of such

HeinOnline -- 1967 vol. I 388 1967

company as surety. No such withdrawal by any company shall be effective for thirty (30) days after the filing thereof with the state insurance commissioner.

CHAPTER 12. PRELIMINARY EXAMINATION

Preliminary examination.

95-1201. **Definition of Preliminary Examination.** A preliminary examination is a hearing before a justice of the peace for the purpose of determining if there is probable cause to believe a felony has been committed by the defendant.

Definition.

95-1202. **Proceedings at the Preliminary Examination.**

Proceedings at the preliminary examination.

(a) The defendant shall not enter a plea. The judge shall hear the evidence without unnecessary delay. All witnesses shall be examined in the presence of the defendant. The defendant may cross-examine witnesses against him and may introduce evidence in his own behalf. If from the evidence it appears that there is probable cause to believe that an offense has been committed by the defendant the judge shall hold him to answer to the court having jurisdiction of the offense; otherwise, the judge shall discharge him.

(b) If the defendant waives preliminary examination the judge shall hold him to answer to the court having jurisdiction of the offense.

(c) The judge may in his discretion and must upon the request of the defendant, exclude from the preliminary examination every person not officially associated with the case before the court.

(d) The testimony of each witness, in case of homicide, must be reduced to writing, as a deposition, by a court appointed stenographer; in cases other than homicide the testimony of each witness shall be taken by a court appointed stenographer upon demand by the county attorney, or the defendant, or the defendant's counsel. After concluding the proceeding if the judge holds the defendant to answer he shall transmit forthwith to the clerk of the court having jurisdiction of the offense all papers in the proceeding and any bail taken by him.

95-1203. **Exclusion and Separation of Witnesses.** During the examination of any witness or when the defendant is making a statement or testifying the judge may,

Exclusion and separation of witnesses.

HeinOnline -- 1967 vol. I 389 1967

and on the request of the defendant or state shall, exclude all other witnesses. He may also cause the witnesses to be kept separate and to be prevented from communicating with each other until all are examined.

Recognizance by or deposition of witness.

95-1204. **Recognizance by or Deposition of Witness.** If the defendant is held to answer after a preliminary examination or after the defendant has waived a preliminary examination or after the district court has granted leave to file an information or after an indictment has been returned, the judge may require:

(a) Any material witness for the state or defendant to enter into a written undertaking;

(1) To appear at the trial, and

(2) May provide for the forfeiture of a sum certain in the event the witness does not appear at the trial.

(b) Any witness who refuses to enter into a written undertaking may be remanded to custody but shall not be held longer than is necessary to take his deposition.

After the deposition is taken the witness must be immediately discharged.

(c) Such deposition must be taken in the presence of the county attorney and the defendant and his counsel, unless either the county attorney or the defendant and his counsel fail to attend after reasonable notice of the time and place set for taking the deposition.

CHAPTER 13.

LEAVE TO FILE INFORMATION AND TIME FOR FILING INFORMATION.

Leave to file information.

95-1301. **Leave to File Information.**

(a) The county attorney may apply directly to the district court for permission to file an information against a named defendant. The application must be by affidavit supported by such evidence as the judge may require. If it appears that there is probable cause to believe that an offense has been committed by the defendant the judge shall grant leave to file the information, otherwise the application shall be denied.

(b) When there has been granted leave to file an information against the defendant, a warrant may issue

HeinOnline -- 1967 vol. I 390 1967

for his arrest and he must be brought before the court, unless the court orders otherwise.

(c) If the person against whom an information is sought to be filed is a district court judge, the county attorney shall apply directly to the Supreme Court for permission to file the information. The Supreme Court shall then proceed in the manner provided in section 95-1301(a).

When leave is granted by the Supreme Court it shall designate and direct a judge of the district court of another district to preside at the trial of such information, and hear and determine all pleas and motions affecting the defendant thereunder before and after judgment. All necessary records shall be transferred to the clerk of the district court of the district in which the action arose.

Time for filing the information.

95-1302. **Time for Filing the Information.** After the defendant has been examined and held to answer, or has waived preliminary examination as provided in section 95-1202 of this code, or after leave of court has been granted as provided in section 95-1301 of this code, the county attorney must file, within thirty days, in the proper district court an information charging the defendant with the offense for which he is held to answer, or any other offense disclosed by the evidence. If the county attorney fails to file the information within the time specified he may be found guilty of contempt, and may be prosecuted for neglect of duty.

The county attorney not filing an information.

95-1303. **The County Attorney Not Filing an Information.** If the county attorney determines an information ought not to be filed after the defendant has been held to answer following a preliminary examination or waiver thereof, or after leave to file has been granted, he must within 30 days make, subscribe, and file with the clerk of the court a statement in writing containing his reasons in fact and in law for not filing an information. The court must examine such statements together with the evidence filed in the case, and if upon such examination, the court is not satisfied with the statement, the county attorney shall be directed and required by the court to file the proper information and bring the case to trial.

HeinOnline -- 1967 vol. I 391 1967

Grand jury—summoning.

CHAPTER 14. GRAND JURY

95-1401. **Summoning Grand Juries.** A grand jury must only be drawn and summoned when the district judge in his discretion considers a grand jury necessary and shall so order. The grand jury must consist of seven persons, of whom five must concur to find an indictment. The district judge may direct the selection of one or more alternate jurors who shall sit as regular jurors before an indictment is found or a grand jury investigation is concluded. If a member of the jury becomes unable to perform his duty he may be replaced by an alternate. The composition and drawing of a grand jury shall be in accordance with the provisions of section 93-1801 to section 93-1804.

Objections to grand jury and to grand jurors.

95-1402. **Objections to Grand Jury and to Grand Jurors.**

(a) The state may challenge the panel of a grand jury on the grounds that the grand jury was not selected, drawn or summoned according to law, and may challenge an individual juror on the ground that the juror is not legally qualified. Challenges may be oral or in writing and shall be tried and decided by the court. At any time for cause shown the court may excuse or discharge a juror or jurors either temporarily or permanently and in the latter event the court may impanel another person or persons in place of the juror or jurors discharged.

Motion to dismiss.

(b) **Motion to Dismiss.** A motion to dismiss the indictment may be based on the grounds that the grand jury was not selected, drawn or summoned according to law, or that an individual juror was not legally qualified. An indictment shall not be dismissed on the ground that one or more members of the grand jury were not legally qualified if it appears from the record kept pursuant to section 95-1403 of this code that 5 or more jurors after deducting those not legally qualified, concurred in finding the indictment.

Foreman.

95-1403. **Foreman.** The court shall appoint one of the jurors to be foreman. The foreman shall have the power to administer oaths and affirmations and shall sign all indictments. He or another juror designated by him shall keep a record of the number of jurors concurring in the finding of every indictment and shall file the

HeinOnline -- 1967 vol. I 392 1967

record with the clerk of court, but the record shall not be made public except on order of the court.

95-1404. **Charge by Court.** Charge by court.

(a) When the grand jury is impaneled and sworn, it shall be charged by the judge who summoned it. In doing so, the court shall give the grand jurors such informaiton as it deems proper, or as is required by law, as to their duties, and as to any charges of public offenses known to the court and likely to come before the grand jury.

(b) When the grand jury has been impaneled, sworn and charged, it shall retire to a private room, and inquire into the offenses cognizable by it. When the grand jury certifies completion of business before it and the court concurs, it shall be discharged by the court.

95-1405. **Powers and Duties of Grand Jury.** Powers and duties of grand jury.

(a) The grand jury may inquire into all public offenses committed or triable within the county and present them to the court by indictment.

(b) If a member of a grand jury knows, or has reason to believe, that a public offense, triable within the county, has been committed, he shall declare it to his fellow jurors, who shall thereupon investigate it.

(c) The grand jury may inquire into:

(1) The case of every person imprisoned in the jail of the county on a criminal charge and not indicted, or against whom an information or complaint has not been filed.

(2) The condition and management of the public prisons within the county.

(3) The willful or corrupt misconduct in office of public officers of every description within the county.

(d) The grand jury is entitled to free access, at all reasonable times, to the public prisons and to the examination without charge, of all public records within the county.

(e) If, in the judgment of the grand jury, the services of an expert are necessary, the grand jury may employ one or more at an agreed compensation, to be first approved by the court. If, in the judgment of the grand

HeinOnline -- 1967 vol. I 393 1967

jury, the services of assistants to such experts are required, the grand jury may employ such assistants, at a compensation to be agreed upon and approved by the court.

(f) All expenses of the grand jury, including special counsel and investigators, if any, shall be paid by the treasurer of the county out of the general fund of the county upon warrants drawn by the county auditor or the clerk of the district court upon the written order of the judge of the district court of the county.

Who may advise grand jury and who may be present.

95-1406. **When and From Whom They May Ask Advice and Who May Be Present During Their Sessions.**

(a) The grand jury may, at all times, ask the advice of the court, or the judge thereof, or the attorney general or of the county attorney. Unless such advice is asked, the judge of the court shall not be present during the sessions of the grand jury.

(b) The county attorney of the county or the attorney general may at all times appear before the grand jury for the purpose of giving information or advice relative to any matter cognizable by the grand jury, and may interrogate witnesses before the grand jury whenever he thinks it necessary. When a charge against or involving the county attorney, or deputy county attorney, or anyone employed by or connected with the office of the county attorney, is being investigated by the grand jury, such county attorney, or deputy county attorney or all or any one or more of them, shall not be allowed to be present before such grand jury when such charge is being investigated, in an official capacity but only as a witness, and he shall only be present while a witness and after his appearance as such witness shall leave the place where the grand jury is holding session.

(c) When requested to do so by the grand jury of any county, the attorney general or county attorney may employ special counsel and investigators, whose duty it shall be to investigate and present the evidence in such investigation to such grand jury.

(d) The grand jury or county attorney may require by subpoena the attendance of any person before the grand jury as interpreter. While his services are necessary, such interpreter may be present at the examination

HeinOnline -- 1967 vol. I 394 1967

of witnesses before the grand jury. The compensation for services of such interpreter constitutes a charge against the county, and shall be fixed by the grand jury, in an amount to be approved by the court and paid out of the county treasury on a warrant of the county auditor upon an order of the judge of the district court.

(e) Transcript of Testimony.

(1) The grand jury may appoint a stenographer to take in shorthand the testimony of witnesses or the testimony may be taken by a recording device, but the record so made shall include the testimony of all witnesses on that particular investigation. The shorthand notes or the recordings and transcript of the same, if any, shall be delivered to and retained by the clerk of the district court.

(2) The stenographer and any typist who transcribes the stenographer's notes or recordings shall be sworn by the foreman not to disclose any testimony or the names of any witnesses except when so ordered by the court. The stenographic reporter shall certify and file with the clerk of the district court an original transcription of his shorthand notes and a copy thereof and as many additional copies as there are defendants. The reporter shall complete such certification and filing within 10 days after the indictment has been found or the accusation presented unless the court for good cause makes an order extending the time. The clerk of the district court shall deliver the original of the transcript so filed with him to the county attorney immediately upon his receipt thereof, shall retain one copy for use only by judges in proceedings relating to the indictment or accusation, and shall deliver a copy of such transcript to each such defendant or his attorney.

Subpoena of witnesses; issuance.

95-1407. **Subpoena of Witnesses; Issuance.** A subpoena requiring the attendance of a witness before the grand jury may be signed and issued by the county attorney, by the grand jury or by the judge of the district court, for witnesses in the state, in support of the prosecution, for those witnesses whose testimony, in his opinion is material in an investigation before the grand jury, and for such other witnesses as the grand jury upon investigation pending before them may direct.

HeinOnline -- 1967 vol. I 395 1967

Reception of evidence.

95-1408. **Reception of Evidence.**

(a) In the investigation of a charge, the grand jury shall receive no other evidence than that given by witnesses produced and sworn before the grand jury, furnished by legal documentary evidence, or the deposition of a witness in the cases mentioned in section 95-1802.

(b) The grand jury is not required to hear evidence for the defendant, but it shall weigh all the evidence submitted to it, and when it has reason to believe other evidence within its reach will explain away the charge, it shall order the evidence to be produced, and for that purpose may require the county attorney to issue process for witnesses.

(c) The grand jury shall find an indictment when all the evidence before it, taken together, if unexplained or uncontradicted, would, in its judgment, warrant a conviction by a trial jury.

Secrecy of proceedings and disclosure.

95-1409. **Secrecy of Proceedings and Disclosure.** Disclosure of matters occurring before the grand jury other than its deliberations and the vote of any juror may be made to the county attorney for use in the performance of his duty. Otherwise a juror, attorney, interpreter, stenographer, operator of a recording device, or any typist who transcribes recorded testimony may disclose matters occurring before the grand jury only when so directed by the court preliminary to or in connection with a judicial proceeding or when permitted by the court at the request of the defendant upon a showing that grounds may exist for a motion to dismiss the indictment because of matters occurring before the grand jury under section 95-1402(b). No obligation of secrecy may be imposed upon any person except in accordance with this rule. The court may direct that an indictment shall be kept secret until the defendant is in custody or has given bail, and no person shall disclose the finding of the indictment except when necessary for the issuance and execution of a warrant or summons.

Finding and presentment of the indictment.

95-1410. **Finding and Presentment of the Indictment.**

(a) An indictment cannot be found without the concurrence of at least five grand jurors. When so found it must be indorsed, "a true bill," and the endorsement must be signed by the foreman of the grand jury.

HeinOnline -- 1967 vol. I 396 1967

(b) Indictment, How Presented and Filed:

(1) An indictment, when found by the grand jury, must be presented by their foreman, in their presence, to the court, and must be filed with the clerk.

(2) When an indictment is filed against a district court judge, it must be transmitted directly to the Supreme Court, who shall thereupon designate and direct a judge of the district court of another district to preside at the trial of such indictment and hear and determine all pleas and motions affecting the defendant thereunder before and after judgment.

(c) If the defendant is in custody or has given bail and five (5) jurors do not concur in finding an indictment, the foreman shall so report to the court in writing forthwith.

(d) When an indictment is found against a defendant, a warrant must issue for his arrest and he must be brought before the court, unless the court orders otherwise.

CHAPTER 15. CHARGING AN OFFENSE

Charging an offense.

95-1501. **Methods of Prosecution.** When authorized by law a prosecution may be commenced by:

Methods of prosecution.

(a) A complaint;

(b) An information following a preliminary examination, or waiver thereof;

(c) An information after leave of court has been granted;

(d) An indictment upon a finding by a grand jury.

95-1502. **Commencement of Prosecutions.**

Commencement of prosecutions.

(a) All prosecutions of offenses triable in the district courts shall be by indictment or information except as otherwise provided by Chapter 55, Title 94, R.C.M. 1947.

(b) All other prosecutions of offenses may be by complaint.

95-1503. **Form of Charge.** A charge shall:

Form of charge.

(a) Be in writing and in the name of the State of Montana, or in the name of a municipality if a violation of a municipal ordinance is charged, and

HeinOnline -- 1967 vol. I 397 1967

(b) Specify the name of the court in which the charge is filed, and

(c) Charge the commission of an offense by:

(1) stating the name of the offense;

(2) citing in customary form the statute, rule, regulation or other provision of law which the defendant is alleged to have violated;

(3) stating the facts constituting the offense in ordinary and concise language and in such manner as to enable a person of common understanding to know what is intended;

(4) stating the time and place of the offense as definitely as can be done; and

(5) stating the name of the accused, if known, and if not known, designate the accused by any name or description by which he can be identified with reasonable certainty.

(d) If the charge is by information or indictment, it shall include indorsed thereon, the names of the witnesses for the state, if known.

(e) If the charge is by complaint it shall be signed on oath by a person having knowledge of the facts or by the county attorney; if by information, it shall be signed by the county attorney or by his deputy; if by indictment, it shall be signed by the foreman of the grand jury.

(f) If the charge is by information or indictment it must be recorded by the clerk within five days after the same is filed, in a book to be kept for that purpose. The judge must compare the record with the original indictment or information and certify the correctness thereof. In case the original is lost or destroyed, the defendant may be tried upon a copy taken from the record, and certified by the clerk.

Joinder of offenses and of defendants.

95-1504. **Joinder of Offenses and of Defendants.**

(a) An indictment, information, complaint or accusation may charge two or more different offenses connected together in their commission, or different statements of the same offense or two or more different offenses of the same class of crimes or offenses, under separate counts,

HeinOnline -- 1967 vol. I 398 1967

and if two or more indictments, informations, complaints or accusations are filed in such cases in the same court, the court may order them to be consolidated. Allegations made in one count may be incorporated by reference in another count. The prosecution is not required to elect between the different offenses or counts set forth in the indictment, information, complaint or accusation, but the defendant may be convicted of any number of the offenses charged, and each offense of which the defendant is convicted must be stated in the verdict or the finding of the court; provided, that the court in which the case is triable, in the interests of justice and for good cause shown, may in its discretion order that the different offenses or counts set forth in the indictment, information, complaint and accusation be tried separately or divided into two or more groups and each of said groups tried separately. An acquittal of one or more counts shall not be deemed an acquittal of any other count.

(b) Two or more defendants may be charged in the same indictment or information if they are alleged to have participated in the same series of acts or transactions constituting an offense or offenses. Such defendants may be charged in one or more counts together or separately and all of the defendants need not be charged in each count.

(c) If it appears that a defendant or the state is prejudiced by a joinder of related prosecutions or defendants in a single charge or by joinder of separate charges or defendants for trial the court may order separate trials, grant a severance of defendants, or provide any other relief as justice may require.

95-1505. **Amending the Charge.**

Amending the charge.

(a) A charge may be amended in matters of substance at any time before the defendant pleads, without leave of court.

(b) The court may permit any charge to be amended as to form at any time before verdict or finding if no additional or different offense is charged and if the substantial rights of the defendant are not prejudiced.

(c) No charge shall be dismissed because of a formal defect which does not tend to prejudice a substantial right of the defendant.

HeinOnline -- 1967 vol. I 399 1967

Prior conviction.

95-1506. **Prior Conviction.** When the state seeks increased punishment of the accused as a prior convicted felon under section 94-4713, notice of that fact must be given in writing to the accused or his attorney before the entry of a plea of guilty by the accused, or before the case is called for trial upon a plea of not guilty. Such notice must conform to the following provisions:

(a) The notice must specify the prior convictions alleged to have been incurred by the accused.

(b) The notice and the charges of prior convictions contained therein shall not be made public nor in any manner be made known to the jury before the jury's verdict is returned upon the felony charge.

(c) If the accused is convicted upon the felony charge, the notice, together with proper proof of timely service, shall be filed with the court before the time fixed for sentence. The court shall then fix a time for hearing with at least 3 days notice to the accused.

(d) The hearing shall be held before the court alone. If the court finds any of the allegations of prior conviction true, the accused shall be sentenced under the provisions of section 94-4713.

Arraignment of defendant.

CHAPTER 16. ARRAIGNMENT OF DEFENDANT.

Arraignment defined.

95-1601. **Arraignment Defined.** Arraignment is the formal act of calling the defendant into open court to answer the charge against him.

Place of arraignment.

95-1602. **Place of Arraignment.** The defendant shall be arraigned in the court in which the indictment, information or complaint is filed, unless before arraignment the cause has been removed to another court, in which case he shall be arraigned in that court.

Presence of defendant.

95-1603. **Presence of Defendant.** If the offense charged is a felony, the defendant must be personally present for arraignment; but if a misdemeanor, he may appear by counsel.

Bringing defendant into court.

95-1604. **Bringing Defendant Into Court.** The court may direct any official who has custody of the defendant to bring him before the court to be arraigned.

HeinOnline -- 1967 vol. I 400 1967

95-1605. **Joint Defendants.** Defendants who are jointly charged may be arraigned separately or together, in the discretion of the court. Joint defendants.

95-1606. **Procedure on Arraignment.** The arraignment in any court in this state must be conducted in the following manner: Procedure on arraignment.

(a) The arraignment must be in open court.

(b) The court must inquire of the defendant or his counsel the defendant's true name and if the defendant's true name be given as any other than that used in the charge, the court must order the defendant's name to be substituted for the name under which he is charged, and the subsequent proceedings must be conducted with the defendant charged under that name, but in the discretion of the court the defendant may also be referred to by the name by which he was first charged.

(c) The court must determine whether the defendant is under any disability which would prevent the court in its discretion from proceeding with the arraignment. The arraignment may be continued until such time as the court determines the defendant is able to proceed.

(d) The defendant shall be advised by the court as follows:

(1) Of the nature of the crime charged against him;

(2) Of the punishment as set forth by statute for the crime charged;

(3) If the defendant appears for arraignment without counsel the court shall advise him of his right to counsel and of his right to assigned counsel if he is unable to employ counsel. If counsel is or has been waived by the defendant the court shall ascertain if the waiver is or was voluntary before proceeding;

(4) Of the time prescribed by statute to enter a plea;

(5) Of his right to secure bail to release him from custody.

(e) The court, or the clerk or county attorney under its direction must deliver to the defendant a true copy of the indictment, information or complaint, including the endorsements thereon and the list of witnesses, when

HeinOnline -- 1967 vol. I 401 1967

required, and read the indictment, information or complaint to the defendant, unless the defendant or his counsel waives such reading, and ask him whether he pleads guilty or not guilty to the indictment, information or complaint.

The defendant shall enter a plea of guilty or not guilty to the indictment, information or complaint. If the defendant refuses to plead to the indictment, information or complaint a plea of not guilty must be entered.

The court may refuse to accept a plea of guilty and shall not accept the plea of guilty without first determining that the plea is voluntary with an understanding of the charge.

(f) The court must prepare and keep a written record of all arraignment proceedings. In district courts a verbatim record of all arraignment proceedings must be made, preserved and filed with the court.

Time allowed to answer.

95-1607. **Time Allowed to Answer.** If, on the arraignment, the defendant requires it, he must be allowed a reasonable time, not less than one (1) day, to answer or otherwise plead to the indictment, information or complaint. The answer may include appropriate pre-trial motions.

Irregularity of arraignments.

95-1608. **Irregularity of Arraignment.** No irregularity in the arraignment which does not affect the substantial rights of the defendant shall affect the validity of any proceeding in the cause if the defendant pleads to the charge or proceeds to trial without objecting to such irregularity.

Pre-trial motions.

CHAPTER 17. PRE-TRIAL MOTIONS.

Defenses and objections which may be raised before trial.

95-1701. **Defenses and Objections Which May Be Raised Before Trial.** Any defense or objection which is capable of determination without the trial of the general issue may be raised before trial by motion to dismiss or for other appropriate relief. The motion shall state with particularity the grounds therefor and the order or relief sought.

Defenses and objections which must be raised before trial.

95-1702. **Defenses and Objections Which Must Be Raised Before Trial.** Defenses and objections based on defects in the institution of the prosecution or in the complaint, indictment or information other than that it

HeinOnline -- 1967 vol. I 402 1967

fails to show jurisdiction in the court or to charge an offense may be raised only before trial by motion to dismiss or for other appropriate relief. The motion shall include all such defenses and objections then available to the defendant. Failure to present any such defense or objection as herein provided constitutes a waiver thereof, but the court for cause shown may grant relief from the waiver. Lack of jurisdiction or the failure of the indictment, information, or complaint to charge an offense shall be noticed by the court at any time during the pendency of the proceeding.

Dismissal on motion of court or application of attorney prosecuting.

95-1703. **Dismissal on Motion of Court or Application of Attorney Prosecuting.** The court may, either on its own motion or upon the application of the attorney prosecuting, and in furtherance of justice, order an action, complaint, information, or indictment to be dismissed. The reasons of the dismissal must be set forth in an order entered upon the minutes.

Time of making motion.

95-1704. **Time of Making Motion.** The motion shall be made before the plea is entered, but the court for cause may permit it to be made within a reasonable time thereafter.

Hearing on motion.

95-1705. **Hearing on Motion.** A motion before trial raising defenses or objections shall be determined before trial unless the court orders that it be deferred for determination at the trial of the general issue.

Effect of determination.

95-1706. **Effect of Determination.** If a motion is determined adversely to the defendant he shall plead if he has not previously pleaded. A plea previously entered shall stand. If the court directs the action to be dismissed, the defendant must, if in custody, be discharged therefrom; or, if admitted to bail, his bail exonerated, or money deposited instead of bail must be refunded to him. However, if the court grants a motion to dismiss based on a defect in the institution of the prosecution or in the indictment, information, or complaint, or when it appears at any time before judgment that a mistake has been made in charging the proper offense, it may also order that the defendant be held in custody or that his bail be continued for a specified time pending the filing of a new complaint, indictment or information.

Transfer of trial.

95-1707. **Transfer of Trial.** If the court determines that the motion to dismiss, based upon the grounds of

HeinOnline -- 1967 vol. I 403 1967

lack of jurisdiction or improper place of trial, is well founded it may, instead of dismissal, order the cause transferred to a court of competent jurisdiction or to a proper place of trial.

Motion for continuance.

95-1708. **Motion for Continuance.**

(a) The defendant or the state may move for a continuance. If the motion is made more than thirty days after arraignment or at any time after trial has begun the court may require that it be supported by affidavit.

(b) The court may upon the motion of either party or upon the court's own motion order a continuance if the interests of justice so require.

(c) All motions for continuance are addressed to the discretion of the trial court and shall be considered in the light of the diligence shown on the part of the movant.

(d) This section shall be construed to the end that criminal cases are tried with due diligence consonant with the rights of the defendant and the state to a speedy trial.

Substitution of judge.

95-1709. **Substitution of Judge.**

(a) The defendant or the prosecution may move the court in writing for a substitution of judge on the ground that he cannot have a fair and impartial hearing or trial before said judge. The motion shall be made at least fifteen days prior to the trial of the case, or any retrial thereof after appeal, except for good cause shown. Upon the filing of such a motion the judge against whom the motion is filed shall be without authority to act further in the criminal action, motion or proceeding but the provisions of this section do not apply to the arrangement of the calendar, the regulation of the order of business, the power of transferring the criminal action or proceeding to some other court, nor to the power of calling in another judge to sit and act in such criminal action or proceeding, providing that no judge shall so arrange the calendar as to defeat the purposes of this section. Not more than one judge can be disqualified in the criminal action or proceeding, at the instance of the prosecution and not more than one judge at the instance of the defendant or defendants.

HeinOnline -- 1967 vol. I 404 1967

If either party in any matter above-mentioned shall file the affidavit as herein provided such party may not complain of any reasonable delay as the result thereof.

The provision of this section shall be inapplicable to any person in any cause involving a direct contempt of court.

(b) In addition to the provision of subsection (a) any defendant may move at any time for substitution of judge for cause, supported by affidavit. Upon the filing of such motion the court shall conduct a hearing and determine the merits of the motion.

95-1710. **Change of Place of Trial.**

Change of place of trial.

(a) The defendant or the prosecution may move for a change of place of trial on the ground that there exists in the county in which the charge is pending such prejudice that a fair trial cannot be had in such county. The motion shall be made at least fifteen days prior to trial, unless, for good cause shown, it may be made thereafter.

(b) The motion shall be in writing and supported by affidavit which shall state facts showing the nature of the prejudice alleged. The defendant or the state may file counter-affidavits. The court shall conduct a hearing and determine the merits of the motion.

(c) If the court determines that there exists in the county where the prosecution is pending such prejudice that a fair trial cannot be had it shall transfer the cause to any other court of competent jurisdiction in any county where a fair trial may be had.

CHAPTER 18.

PRODUCTION AND SUPPRESSION OF EVIDENCE.

Production and suppression of evidence.

95-1801. **Subpoenas.**

Subpoenas.

(a) Upon the request of the prosecuting attorney or the defendant or his attorney, the court or the clerk of the court shall issue subpoenas. The subpoena shall state the name of the court and the title, if any, of the proceeding, and shall command each person to whom it is directed to attend and give testimony and produce objects and documents at the time and place specified therein.

HeinOnline -- 1967 vol. I 405 1967

Indigent defendants

(b) **Indigent Defendants.** When the defendant is indigent a court order must be obtained if more than six (6) witnesses are to be subpoenaed. If a witness is to be paid more than the regular fee, or there are more than six (6) witnsses to be paid an order of the court or judge is needed; such order may be made upon proper showing by affidavit or otherwise.

Expenses of witnesses.

(c) **Expenses of Witness.** When a person attends before a magistrate, grand jury, or court, as a witness in a criminal case, upon a subpoena or in pursuance of an undertaking, the judge, at his discretion, by a written order, may direct the clerk of the court to draw his warrant upon the county treasurer in favor of such witness for a reasonable sum, to be specified in the order, for the necessary expenses of the witness.

(d) In all criminal cases originally triable in the district court the following rules shall apply: Upon motion of either party and upon showing of good cause, the court may issue a subpoena prior to the trial directing any person other than the defendant to produce books, statements, papers and objects before the court at a time prior to the trial or prior to the time when they are to be offered in evidence and the court may, upon their production, permit the books, statements, papers or objects or portions thereof to be inspected, copied, or photographed by the parties and their attorneys.

Upon motion of the defendant, within a reasonable time before trial, the court may, upon a showing of good cause, at a time and place designated by the court, order the prosecution to produce prior to trial for inspection, photographing or copying by the defendant, designated books, statements, papers, or objects obtained from the defendant or others by the prosecution which are material, relevant and necessary to the preparation of the defendant's case.

Service.

(e) **Service.** A subpoena may be served by a peace officer or by any other person who is not a party and who is not less than 18 years of age, but a peace officer must serve in his county any subpoena delivered to him for service, either on the part of the state or of the defendant. The person making the service must without delay, make a written return of the service, subscribed by him, stating the time and place of service. Service of

HeinOnline -- 1967 vol. I 406 1967

a subpoena shall be made by delivering a copy thereof to the person named, and if ordered by the court, by tendering to those residing outside the county of trial the fee for one day's attendance and the mileage allowed by law.

(f) **Place of Service.** A subpoena requiring attendance of a witness at a hearing or trial may be served anywhere within the State of Montana. Place of service.

95-1802. **Depositions.** Deposition.

(a) **Grounds for Taking Depositions:** Grounds.

(1) If it appears that a prospective witness may be unable to attend or prevented from attending a trial or hearing or is or may become a non-resident of the state, or is unwilling to provide relevant information to a requesting party, and that his testimony is material and that it is necessary to take his deposition in order to prevent a failure of justice, the court, at any time after the preliminary hearing or the filing of the indictment or the information, may upon motion and notice to the parties order that his testimony be taken by deposition and that any designated books, papers, documents, or tangible objects, not privileged, be produced at the same time and place.

(2) If a witness is committed for failure to give bail to appear to testify at a trial or hearing, the court must direct that his deposition be taken at the expense of the state. After the deposition has been subscribed the court shall discharge the witness.

(b) **Notice of Taking.** The party at whose instance a deposition is to be taken shall give to every other party reasonable written notice of the time and place for taking the deposition. The notice shall state the name and address of each person to be examined. On motion of a party upon whom the notice is served, the court for cause shown may extend or shorten the time. Notice.

(c) **How Taken.** A deposition shall be taken in the manner provided in civil actions. The court at the request of a defendant may direct that a deposition be taken on written interrogatories in the manner provided in civil actions.

(d) **Filing Deposition.** The court shall transmit the deposition to the clerk of the court making the order, Filing.

HeinOnline -- 1967 vol. I 407 1967

there to be filed and held until the action shall come on for trial.

Use.

(e) **Use.** At the trial or upon any hearing, a part or all of a deposition, so far as otherwise admissible under the rules of evidence, may be used if it appears: That the witness is dead; or that the witness is out of the state of Montana unless it appears that the absence of the witness was procured by the party offering the deposition; or that the witness is unable to attend or testify because of sickness or infirmity; or that the party offering the deposition has been unable to procure the attendance of the witness by subpoena. Any deposition may also be used by any party for the purpose of contradicting or impeaching the testimony of the deponent as a witness. If only a part of a deposition is offered in evidence by a party, an adverse party may require him to offer all of it which is relevant to the part offered and any party may offer other parts. For the purposes of this section, the word "deposition" shall in addition include any sworn testimony previously given by a witness which has been recorded and transcribed by a qualified stenographer and given in the presence of the defendant and cross-examined by him or his attorney on matters relevant to the trial or hearing where such deposition is sought to be used.

Objections.

(f) **Objections to Admissibility.** Objections to receiving in evidence a deposition or part thereof may be made as provided in civil actions.

(g) **At Instance of the State or Witness.** The following additional requirements shall apply if the deposition is taken at the instance of the state or a witness. The officer having custody of a defendant shall be notified of the time and place set for examination and keep him in the presence of the witness during the examination. A defendant not in custody shall be given notice and shall have the right to be present at the examination. The state shall pay to the defendant's attorney and to a defendant not in custody expenses of travel and subsistence for attendance at the examination.

Discovery, inspection and notice.

95-1803. **Discovery, Inspection, and Notice.** In all criminal cases originally triable in district court the following rules shall apply:

HeinOnline -- 1967 vol. I 408 1967

(a) **List of Witnesses:** List of witnesses.

(1) For the purpose of notice only and to prevent surprise, the prosecution shall furnish to the defendant and file with the clerk of the court at the time of arraignment, a list of the witnesses intended to be called by the prosecution. The prosecution may, any time after arraignment, add to the list the names of any additional witnesses, upon a showing of good cause. The list shall include the names and addresses of the witnesses.

(2) The requirement of subsection (a) (1), of this section, shall not apply to rebuttal witnesses.

(b) Subpoenas may be used as a discovery device as provided for under section 95-1801 (d). Subpoenas.

(c) On motion of any party within a reasonable time before trial all parties shall produce at a reasonable time and place designated by the court all documents, papers or things which each party intends to introduce in evidence. Thereupon any party shall, in the presence of a person designated by the court, be permitted to inspect or copy any such documents, papers or things. The order shall specify the time, place and manner of making the inspection and of taking the copies or photographs and may prescribe such terms and conditions as are just. If the evidence relates to scientific tests or experiments the opposing party shall, if practicable, be permitted to be present during the tests and to inspect the results thereof. Upon a sufficient showing the court may at any time order that the discovery or inspection be denied, restricted or deferred, or make other appropriate orders. If, subsequent to compliance with an order issued pursuant to this rule, and prior to or during trial, a party discovers additional material previously requested which is subject to discovery or inspection under the rule he shall promptly notify the other party or his attorney or the court of the existence of the additional material. The court shall exclude any evidence not presented for inspection or copying pursuant to this rule, unless good cause is shown for failure to comply. In the latter case the opposing party shall be entitled to recess or a continuation during which it may inspect or copy the evidence in the manner provided for above. Documents, papers or things.

(d) For purpose of notice only and to prevent surprise, the defendant shall furnish to the prosecution and Mental condition.

HeinOnline -- 1967 vol. I 409 1967

file with the clerk of the court at the time of entering his plea of not guilty or within ten days thereafter or at such later time as the court may for good cause permit, a statement of intention to interpose the defense of insanity, self-defense or alibi. If the defendant intends to interpose any of these defenses, he shall also furnish to the prosecution and file with the clerk of the court, the names and addresses of all witnesses to be called by the defense in support thereof. The defendant may, prior to trial, upon motion and showing of good cause, add to the list of witnesses the names of any additional witnesses. After the trial commences, no witnesses may be called by the defendant in support of these defenses, unless the name is included on such list, except upon good cause shown.

Privilege.

(e) All matters which are privileged upon the trial, are privileged against disclosure through any discovery procedure.

Motion to produce confession or admission.

95-1804. **Motion to Produce Confession or Admission.**

(a) On motion of a defendant in any criminal case made prior to trial the court shall order the state to furnish the defendant with a copy of any written confession or admission and a list of the witnesses to its making. If the defendant has made an oral confession or admission a list of the witnesses to its making shall be furnished.

(b) The list of witnesses may upon notice and motion be amended by the state prior to trial.

(c) No such confession or admission shall be received in evidence which has not been furnished in compliance with subsection (a) of this section unless the court is satisfied that the prosecutor was unaware of the existence of such confession or admission prior to trial and that he could not have become aware of such in the exercise of due diligence.

Motion to suppress confession or admission.

95-1805. **Motion to Suppress Confession or Admission.**

(a) A defendant may move to suppress as evidence any confession or admission given by him on the ground that it was not voluntary.

(b) The motion shall be made before the trial unless for good cause shown the court shall otherwise direct.

HeinOnline -- 1967 vol. I 410 1967

(c) The defendant shall give at least ten (10) days notice of such motion to the attorney prosecuting or such other time as the court may direct. The defendant shall serve a copy of the notice and motion upon the attorney prosecuting.

(d) The motion shall be in writing and state facts showing wherein the confession or admission was involuntary.

(e) If the allegations of the motion state facts which if true, show that the confession or admission was not voluntarily made the court shall conduct a hearing into the merits of the motion.

(f) The burden of proving that a confession or admission was involuntary shall be on the defendant.

(g) The issue of the admissibility of the confession or admission shall not be submitted to the jury. If the confession or admission is determined to be admissible the circumstances surrounding the making of the confession or admission may be submitted to the jury as bearing upon the credibility or the weight to be given to the confession or admission.

(h) If the motion is granted the confession or admission shall not be admissible in evidence against the movant at the trial of the case.

95-1806. **Motion to Suppress Evidence Illegally Seized.** Motion to suppress evidence illegally seized.

(a) A defendant aggrieved by an unlawful search and seizure may move the court to suppress as evidence anything so obtained.

(b) The motion shall be made before trial unless for good cause shown the court shall otherwise direct.

(c) The defendant shall give at least ten (10) days notice of such motion to the attorney prosecuting or such other time as the court may direct. The defendant shall serve a copy of the notice and motion upon the attorney prosecuting.

(d) The motion shall be in writing and state facts showing wherein the search and seizure were unlawful.

HeinOnline -- 1967 vol. I 411 1967

(e) If the allegations of the motion state facts which if true show that the search and seizure were unlawful the court shall conduct a hearing into the merits of the motion.

(f) The burden of proving that the search and seizure were unlawful shall be on the defendant.

(g) If the motion is granted the evidence shall not be admissible against the movant at any trial of the case.

Trial in district court.

CHAPTER 19. TRIAL IN DISTRICT COURT.

Method of trial.

95-1901. **Method of Trial.**

(a) All prosecutions except on a plea of guilty, deciding issues of fact shall be tried by the court and jury.

(b) Questions of law shall be decided by the court and questions of fact by the jury except on a trial for libel the jury shall determine both questions of law and of fact.

(c) Defendants in all criminal cases shall have a right to trial by jury not to exceed twelve in number. However, if no capital offense is involved, the parties may agree in writing, at any time before the verdict, with the approval of the court that the jury shall consist of any number less than twelve.

(d) The plea of not guilty puts in issue every material allegation of the indictment, information or complaint.

Plea of guilty.

95-1902. **Plea of Guilty.** Before or during trial a plea of guilty may be accepted when:

(a) the defendant enters a plea of guilty in open court; and

(b) the court has informed the defendant of the consequences of his plea and of the maximum penalty provided by law which may be imposed upon acceptance of such plea.

(c) At any time before or after judgment the court may for good cause shown permit the plea of guilty to be withdrawn and a plea of not guilty substituted.

Failure of county attorney to attend.

95-1903. **Failure of the County Attorney to Attend.** If the county attorney fails to attend the trial, the court may appoint some attorney-at-law to perform his duties.

HeinOnline -- 1967 vol. I 412 1967

95-1904. **Presence of Defendant; Mistrial for Absence.** Presence of defendant, mistrial for absence.

(a) The defendant must be personally present at the trial and rendition of judgment in all cases tried in the district court. If the defendant fails to appear at any time during the course of the trial and before the jury has retired for its deliberations or the case has been finally submitted to the judge, and if after the exercise of reasonable diligence, his presence cannot be procured, the court shall declare a mistrial and the cause may again be tried.

(b) In all cases appealed to the Supreme Court it shall be conclusively deemed that the defendant was present in court at all stages of the trial unless the record on appeal affirmatively shows to the contrary; in all cases appealed to the Supreme Court it shall be conclusively deemed that the court or judge gave the proper admonition in accordance with the provision of section 95-1913(e) unless the record affirmatively shows to the contrary.

95-1905. **Formation of Trial Jury.** Trial juries for criminal actions are formed in the same manner as trial juries in civil actions, except that the total number of jurors drawn shall be at least twelve plus the total number of peremptory challenges. Formation of trial jury.

95-1906. **Order of Prosecutions.** Prosecutions against defendants held in custody must be disposed of in advance of prosecution against defendants on bail unless for good cause the court shall direct an action to be tried out of its order. Order of prosecutions.

95-1907. **Time to Prepare for Trial.** After plea, the defendant shall be entitled to a reasonable time to prepare for trial. Time to prepare for trial.

95-1908. **Motion to Discharge Jury Panel.** Motion to discharge jury panel.

(a) Any objection to the manner in which a jury panel has been selected or drawn shall be raised by a motion to discharge the jury panel. The motion shall be made at least five days prior to the term for which the jury is drawn. For good cause shown, the court may entertain the motion at any time thereafter.

(b) The motion shall be in writing supported by affidavit and shall state facts which show that the jury panel was improperly selected or drawn.

HeinOnline -- 1967 vol. I 413 1967

(c) If the motion states facts which show that the jury panel has been improperly selected or drawn, it shall be the duty of the court to conduct a hearing. The burden of proof shall be on the movant.

(d) If the court finds that the jury panel was improperly selected or drawn, the court shall order the jury panel discharged and the selection or drawing of a new panel in the manner provided by law.

Trial jurors.

95-1909. **Trial Jurors.**

(a) The clerk of court shall make available to the parties a list of prospective jurors with their addresses when drawn.

Qualifications.

(b) (1) The qualifications of jurors, and who will be exempted, are found in sections 93-1301 through 93-1307, of the civil code, which by reference are made a part of this code.

(2) An exemption from service on a jury is not a cause of challenge, but the privilege of the person exempted.

(c) The county attorney and the defendant or his attorney shall conduct the examination of prospective jurors. The court may conduct an additional examination. The court may limit the examination by the defendant, his attorney or the prosecuting attorney if the court believes such examination to be improper.

(d) (1) Each party may challenge jurors for cause, and each challenge must be tried by the court.

Challenge for cause.

(2) A challenge for cause may be taken for all or any of the following reasons; or for any other reason which the court determines:

(i) Consanguinity or relationship to the person alleged to be injured by the offense charged, or on whose complaint the prosecution was instituted, or to the defendant.

(ii) Standing in the relation of guardian and ward, attorney and client, master and servant, or landlord and tenant, debtor and creditor, or being a member of the family of the defendant, or of the person alleged to be injured by the offense charged, or on whose complaint the prosecution was instituted, or in his employment.

HeinOnline -- 1967 vol. I 414 1967

(iii) Being a party adverse to the defendant in a civil action, or having complained against or been accused by him in a criminal prosecution.

(iv) Having served on the grand jury which found the indictment, or on a coroner's jury which inquired into the death of a person whose death is the subject of the indictment or information.

(v) Having served on a trial jury which has tried another person for the offense charged.

(vi) Having been one of a jury formerly sworn to try the same charge, and whose verdict was set aside or which was discharged without verdict, after the case was submitted to it.

(vii) Having served as a juror in a civil action brought against the defendant for the act charged as an offense.

(viii) If the offense charged be punishable with death, the entertaining of such conscientious opinions as would preclude his finding the defendant guilty; in which case he must neither be permitted nor compelled to serve as a juror.

(ix) Having a belief that the punishment fixed by law is too severe for the offense charged.

(x) For the existence of a state of mind on the part of the juror in reference to the case, or to either of the parties, which will prevent him from acting with entire impartiality and without prejudice to the substantial rights of either party.

(e) All challenges must be interposed before the jury is sworn, unless the cause of challenge be discovered after the jury is sworn and before the introduction of any evidence, when the court, in its discretion may allow the challenge to be interposed.

Peremptory challenges.

(f) Each defendant shall be allowed eight (8) peremptory challenges in capital cases, six (6) in all other cases tried in the district court, and three (3) in all cases tried in justice of the peace or police courts. However, there may not be additional challenges for separate counts charged in the indictment or information. If the indictment or information charges a capital offense, as well as

HeinOnline -- 1967 vol. I 415 1967

lesser offenses in separate counts, the maximum number of challenges shall be eight (8). The state shall be allowed the same number of peremptory challenges as all of the defendants.

Alternate jurors.

(g) After the jury is impaneled and sworn, the court may direct the selection of one or more alternate jurors, in the same manner as principal jurors, who shall take the same oath as the principal jurors. Each party shall have one additional peremptory challenge for each alternate juror. Alternate jurors in the order in which they are called shall replace jurors who, prior to the time the jury arrives at its verdict, become unable or disqualified to perform their duties. An alternate juror shall not join the jury in its deliberation unless called upon by the court to replace a member of the jury. His conduct during the period in which the jury is considering its verdict shall be regulated by instructions of the trial court. An alternate juror who does not replace a principal juror shall be discharged after the jury arrives at its verdict.

Verdict.

(h) The jury shall return a general verdict to each offense charged.

Motion to dismiss.

(i) When, at the close of the state's evidence or at the close of all the evidence, the evidence is insufficient to support a finding or verdict of guilty, the court may on its own motion or on the motion of the defendant, dismiss the action and discharge the defendant. However, the court may allow the case to be reopened for good cause shown.

Order of trial.

95-1910. **Order of Trial.**

(a) The court may instruct the jury as to its duties. Such general instructions must be settled in the same manner as provided for the settlement of special instructions in subdivision (d) hereof.

(b) The county attorney must state the case and offer evidence in support of the prosecution. The defendant may make his opening statement prior to the state's offer of evidence, or may state his defense and then offer evidence in support thereof after the state rests.

(c) The parties may then respectively offer rebutting testimony only, unless the court, for good cause, permits them to offer evidence upon their original case.

HeinOnline -- 1967 vol. I 416 1967

(d) When the evidence is concluded, if either party desires special instructions to be given to the jury, such instructions shall be reduced to writing, numbered, and signed by the party, or his attorney, and delivered to the court. The instructions shall be settled by the court, without the presence of the jury, at which settlement counsel for the parties, or the defendant if he is without counsel, shall be allowed reasonable opportunity to examine the instructions requested and proposed to be given by the court, and to present and argue to the court objections to the adoption or rejection of any instruction offered by counsel or proposed to be given to the jury by the court. On such settlement of instructions, the respective counsel, or the parties, shall specify and state the particular ground on which an instruction is objected to, and it shall not be sufficient to object generally that the instruction does not state the law, or is against the law, but the objection must specify particularly wherein the instruction is insufficient, or does not state the law, or what particular clause therein is objected to. Instructions.

The court shall pass upon the objections to the instructions and shall either give each instruction as requested or proposed or positively refuse to do so, or give the instruction with modification, and shall mark or endorse upon each instruction in such a manner that it shall distinctly appear what instructions were given in whole or in part, and in like manner those refused or modified, and if modified, wherein and how modified. All instructions must be filed as a part of the record of the cause. No exceptions are necessary to the rulings of the court on the settlement of instructions.

The court reporter shall be present at such settlement and shall take down all the objections to any or all of the instructions given or refused by the court, together with modifications made therein, and the ruling of the court thereon.

(e) When the instructions have been passed upon and settled by the court, and before the arguments to the jury have begun, the court shall charge the jury in writing, giving in such charge only such instructions as have been passed upon and settled. In charging the jury, the court shall give them all matters of law which it thinks necessary for the jury's information in rendering a verdict.

HeinOnline -- 1967 vol. I 417 1967

(f) When the jury has been charged, unless the case is submitted to the jury on either side or on both sides without argument, the county attorney must commence and may conclude the argument. If several defendants having several defenses appear by different counsel, the court must determine their relative order in evidence and argument. Counsel, in arguing the case to the judge, may argue and comment upon the law of the case as given in the instructions of the court, as well as upon the evidence of the case.

When order of trial may be departed.

95-1911. **When Order of Trial May Be Departed From.** When the state of the pleading requires it, or in any other case, for good reasons, and in the discretion of the court, the order prescribed in the last section may be departed from.

View of place of offense or property.

95-1912. **View of Place of Offense or Property.** When the court deems it proper that the jury view any place or personal property pertinent to the case, it will order the jury to be conducted in a body under the custody of the sheriff or bailiff, to view said place or personal property in the presence of the defendant and his counsel. The place or personal property will be shown them by a person appointed by the court for that purpose, and they may personally inspect the same. The sheriff or bailiff must be sworn to suffer no person to speak or otherwise communicate with the jury nor to do so himself on any subject connected with the trial, and to return them into the courtroom without unnecessary delay or at a specified time as the court may direct.

Conduct of jury after submission of case.

95-1913. **Conduct of Jury After Submission of Case.**

(a) **Jurors, Separation of During Trial.** The jurors sworn to try an action may, at any time before the submission of the case, in the discretion of the court, be permitted to separate or be kept in charge of a proper officer. The officer must be sworn to keep the jurors together until the next meeting of the court, to suffer no person to speak to them or communicate with them, nor to do so himself, on any subject connected with the trial, and to return them into court at the next meeting thereof.

(b) **Retirement of Jury.** When the jury retires to consider its verdict an officer of the court shall be ap-

HeinOnline -- 1967 vol. I 418 1967

pointed to keep them together and to prevent conversations between the jurors and others.

(c) **Items Which May Be Taken in the Jury Room.** Upon retiring for deliberation, the jury may take with them all papers which have been received as evidence in the cause, except depositions or copies of such papers as ought not, in the opinion of the court, to be taken from the person having them in his possession. The jury may also take with them any exhibits which the court may deem proper, and notes of the proceedings taken by themselves.

(d) **After Retirement, May Return into Court for Information.** After the jury has retired for deliberation, if there be an disagreement among them as to the testimony, or if they desire to be informed on any point of law arising in the cause, they must require the officer to conduct them into court. Upon being brought into court, the information requested may be given in the discretion of the court; if such information is given it must be given in the presence of the county attorney and the defendant and his counsel.

(e) **Admonition.** The jury must also, at each adjournment of the court, whether permitted to separate or kept in charge of officers, be admonished by the court that it is their duty not to converse among themselves or with anyone else on any subject connected with the trial, or to form or express any opinion thereon until the cause is finally submitted to them.

Court may adjourn during absence, but deemed open.

95-1914. **Court May Adjourn During Absence, But Deemed Open.** While the jury is absent the court may adjourn from time to time as to other business, but it must nevertheless be open for every purpose connected with the cause submitted to the jury until a verdict is returned or the jury discharged.

Verdict.

95-1915. **Verdict.**

(a) **Return.** The verdict shall be unanimous in all felonies and two-thirds (⅔) in all misdemeanors and appeals from justice or police courts. Such verdict shall be signed by the foreman and returned by the jury to the judge in open court.

(b) **Several Defendants.** If there are two or more defendants, the jury, at any time during its deliberations,

HeinOnline -- 1967 vol. I 419 1967

may return a verdict or verdicts with respect to a defendant or defendants as to whom it has agreed; if the jury cannot agree with respect to all, the defendant or defendants as to whom it does not agree may be tried again.

(c) **Conviction of a Lesser Offense.** The defendant may be found guilty of an offense necessarily included in the offense charged, or of an attempt to commit either the offense charged or an offense necessarily included therein if the attempt is an offense.

(d) **Poll of Jury.** When a verdict is returned, the jury shall be polled at the request of any party or upon the court's own motion. If upon the poll there is not the required concurrence the jury may be directed to retire for further deliberations or may be discharged.

Defendant, when to be discharged.

95-1916. **Defendant, When to Be Discharged.** If judgment of acquittal is given on a general verdict, and the defendant is not detained for any other legal cause, he must be discharged as soon as the judgment is given, except where the acquittal is because of a variance between the pleading and proof which may be obviated by a new indictment or information the court may order his detention to the end that a new indictment or information may be filed by the county attorney.

Justice and police court proceedings.

CHAPTER 20.

JUSTICE AND POLICE COURT PROCEEDINGS.

Initiation of proceedings.

95-2001. **Initiation of Proceedings.** In justice and police courts all criminal prosecutions must be commenced by complaint under oath.

Minutes.

95-2002. **Minutes.** A docket must be kept by the justice of the peace, or police judge, in which must be entered each action, and the proceedings of the court therein.

Change of place of trial.

95-2003. **Change of Place of Trial.**

(a) The defendant or prosecution, before trial, may move for a change of place of trial on the ground that there exists in the township in which the charge is pending such prejudice that a fair trial cannot be had in such township.

(b) The motion shall be in writing and supported by affidavit which shall state facts showing the nature of

HeinOnline -- 1967 vol. I 420 1967

the prejudice alleged. The defendant or the state may file counter-affidavits. The court shall conduct a hearing and determine the merits of the motion.

(c) If the court determines that there exists in the township where the prosecution is pending such prejudice that a fair trial cannot be had it shall transfer the cause to any other court of competent jurisdiction in any township where a fair trial may be had.

95-2004. **Trial in Justice and Police Courts.** Trial in justice and police courts.

(a) **Method of Trial:**

(1) The defendant is entitled to a jury of six qualified persons, but may consent to a lesser number.

(2) A trial by jury may be waived by the consent of both parties expressed in open court and entered in the docket.

(3) Questions of law shall be decided by the court and questions of fact by the jury except when a jury trial is waived, then the court shall determine both questions of law and of fact.

(b) **Plea of Guilty.** Before or during trial a plea of guilty may be accepted when:

(1) The defendant enters a plea of guilty in open court, and

(2) The court has informed the defendant of the consequences of his plea and of the maximum penalty provided by law which may be imposed upon acceptance of such plea.

(c) **Presence of Defendant.** The trial may be had in the absence of the defendant; but if his presence is necessary for any purpose, the court may require the personal attendance of the defendant at the trial.

(d) **Time to Prepare for Trial.** After plea the defendant shall be entitled to a reasonable time to prepare for trial.

95-2005. **Formation of Trial Jury.** Formation of trial jury.

(a) **Number of Jurors.** A jury in justice or police court shall consist of six persons, but the parties may agree to a number less than six.

HeinOnline -- 1967 vol. I 421 1967

(b) **Formation of Trial Jury.** In January of each year each justice of the peace and each police judge shall select at least fifty (50) names from the jury list which is filed in the office of the clerk of the district court. The list of names selected shall be posted in a public place and shall comprise the trial jury list for the ensuing year.

Trial jurors shall be summoned from the jury list by notifying each orally that he is summoned and of the time and place at which his attendance is required.

The judge shall question all trial jurors summoned for the trial of a case and shall determine if any of them may be challenged for any cause enumerated in section 95-1909(d) (2) of this code. All challenges for cause shall be made by the judge. After the judge has completed his examination of the jury panel, each defendant shall be allowed three (3) peremptory challenges and the state shall be allowed the same number of peremptory challenges as all of the defendants.

Verdict.

95-2006. **Verdict.**

(a) **Return.** The verdict of the jury must in all cases be general. It shall be returned by the jury to the judge in open court, who must enter, or cause it to be entered in the minutes. Two-thirds in number of the jury may render a verdict, and such verdict so rendered shall have the same force and effect as if all jurors had concurred therein.

(b) **Several Defendants.** When several defendants are tried together, if the jury cannot agree upon a verdict as to all, they may render a verdict as to those in regard to whom they do agree, on which a judgment must be entered accordingly, and the case as to the rest may be tried by another jury.

(c) **Poll of Jury.** When a verdict is returned, the jury shall be polled at the request of any party or upon the court's own motion. If upon the poll there is not a two-thirds concurrence, the jury may be directed to retire for further deliberations or may be discharged.

(d) **Discharge of Jury.** The jury cannot be discharged after the cause is submitted to them, until they have agreed upon and rendered their verdict, unless for good cause the court sooner discharges them.

HeinOnline -- 1967 vol. I 422 1967

95-2007. **Sentence and Judgment.**

Sentence and judgment.

(a) If a judgment of acquittal is rendered the defendant must be immediately discharged.

(b) After a plea or verdict of guilty, or after a judgment against the defendant, the court must designate a time for sentencing, which must be within a reasonable time after the verdict or judgment is rendered. The sentence must be entered in the minutes of the court as soon as it is imposed.

(c) If the defendant pleads guilty, or is convicted either by the court or by a jury, the court must impose a sentence of fine or imprisonment or both, as the case may be.

(d) The determination and imposition of sentence shall be the exclusive duty of the court.

95-2008. **Execution of Judgment.**

Execution of judgment.

(a) The judgment must be executed by the sheriff, constable, marshal or policeman of the jurisdiction in which the conviction was had.

(b) When a judgment of imprisonment is entered, a certified copy thereof must be delivered to the sheriff or other officer, which is a sufficient warrant for its execution.

(c) If a judgment is rendered imposing a fine only, without imprisonment for nonpayment, and the defendant is not detained for any other legal cause, he must be discharged as soon as the judgment is given.

A judgment that the defendant pay a fine may also direct that he be imprisoned until the fine be satisfied, in the proportion of one day's imprisonment for every ten dollars ($10.00) of the fine.

When such a judgment is rendered the defendant must be held in custody the time specified in the judgment, unless the fine is sooner paid.

(d) Any officer charged with the collection of fines, under the provisions of this chapter, must return the execution to the judge within thirty days from its delivery to him, and pay over to the judge the money collected therefrom, deducting his fees for the collection.

HeinOnline -- 1967 vol. I 423 1967

All fines imposed and collected by a justice or police court must be paid to the treasurer of the county, city or town as the case may be, within thirty days after the receipt of the same, and the justice or police judge must take duplicate receipts therefor, one of which he must deposit with the county or city or town clerk as the case may be.

Appeal.

95-2009. **Appeal.**

(a) All cases on appeal from justices' or police courts must be tried anew in the district court and may be tried before a jury of six (6) which may be drawn from either the regular panel or jury box No. 3.

(b) The defendant may appeal to the district court by giving written notice of his intention to appeal within ten days after judgment.

(c) Within thirty (30) days the entire record of the justice or police court proceedings shall be transferred to the district court or the appeal shall be dismissed. It shall be the duty of the defendant to perfect the appeal.

Post-trial motions.

CHAPTER 21. POST-TRIAL MOTIONS.

New trial.

95-2101. **New Trial.**

(a) **Definition and Effect.** A new trial is a re-examination of the issue in the same court, before another jury, after a verdict or finding has been rendered and the granting of a new trial places the parties in the same position as if there had been no trial.

(b) **Motion for a New Trial.**

(1) Following a verdict or finding of guilty the court may grant the defendant a new trial if required in the interest of justice.

(2) The motion for a new trial shall be in writing and shall be filed by the defendant within thirty days following a verdict or finding of guilty. Reasonable notice of the motion shall be served upon the state.

(3) The motion for a new trial shall specify the grounds therefor.

(c) **Alternative Authority of the Court on Hearing Motion for New Trial.** On hearing the motion for a new

HeinOnline -- 1967 vol. I 424 1967

trial, if justified by law and the weight of the evidence, the court may:

1. Deny the motion,

2. Grant a new trial, or

3. Modify or change the verdict or finding by finding the defendant guilty of a lesser degree of the crime charged, finding the defendant guilty of a lesser included crime or finding the defendant not guilty.

CHAPTER 22. SENTENCE AND JUDGMENT.

Sentence and judgment.

95-2201. **Liberal Construction.** This chapter shall be liberally construed to the end that persons convicted of a crime shall be dealt with in accordance with their individual characteristics, circumstances, needs, and potentialities; that dangerous offenders shall be correctively treated in custody for long terms as needed; and that other offenders shall be dealt with by probation, suspended sentence, or fine whenever such disposition appears practicable and not detrimental to the needs of public safety and the welfare of the individual.

Liberal construction.

95-2202. **Sentence and Judgment.**

Sentence and judgment.

(a) The judgment shall be rendered in open court.

(b) If the verdict or finding is not guilty judgment shall be rendered immediately and the defendant shall be discharged from custody or from the obligation of his bail bond.

(c) If the verdict or finding is guilty sentence shall be pronounced and judgment rendered within a reasonable time.

95-2203. **Presentence Investigations.** No defendant convicted of a crime which may result in commitment for one year or more in the state prison, shall be sentenced or otherwise disposed of before a written report of investigation by a probation officer is presented to and considered by the court, unless the court deems such report unnecessary. The court may, in its discretion, order a presentence investigation for a defendant convicted of any lesser crime or offense.

Presentence investigations.

95-2204. **Content of Investigation.** Whenever an investigation is required, the probation officer shall

Content of investigation.

HeinOnline -- 1967 vol. I 425 1967

promptly inquire into the characteristics, circumstances, needs, and potentialities of the defendant; his criminal record and social history; the circumstances of the offense; the time the defendant has been in detention; and the harm to the victim, his immediate family, and the community. All local and state mental and correctional institutions, courts, and police agencies shall furnish the probation officer on request the defendant's criminal record and other relevant information. The investigation shall include a physical and mental examination of the defendant when it is desirable in the opinion of the court.

Availability of report to defendant and others.

95-2205. **Availability of the Report to Defendant and Others.** The judge may, in his discretion, make the investigation report or parts of it available to the defendants or others, while concealing the identity of persons who provided confidential information. If the court discloses the identity of persons who provided information, the judge may, in his discretion, allow the defendant to cross-examine those who rendered information. Such reports shall be part of the record but shall be sealed and opened only on order of the court.

If a defendant is committed to a state institution the investigation report shall be sent to the institution at the time of commitment.

Sentence.

95-2206. **Sentence.** Whenever any person has been found guilty of a crime or offense upon a verdict or plea the court may impose any of the following sentences:

(1) Release the defendant on probation;

(2) Defer the imposition of sentence for a period not to exceed three (3) years;

(3) Suspend the execution of the sentence up to the maximum sentence allowed for the particular offense. However, if any restrictions or conditions are violated, any elapsed time shall not be a credit against the sentence, unless the court shall otherwise order.

(4) Impose a fine as provided by law for the offense;

(5) Commit the defendant to a correctional institution with or without a fine as provided by law for the offense;

HeinOnline -- 1967 vol. I 426 1967

(6) Impose any combination of the above. The court may also impose any restrictions or conditions on the above sentences which it deems necessary.

Any judge who has suspended the execution of a sentence or deferred the imposition of a sentence of imprisonment under this section, or his successor, is authorized thereafter, in his discretion, during the period of such suspended sentence or deferred imposition of sentence to revoke such suspension or impose sentence and order such person committed, or may, in his discretion, order the prisoner placed under the jurisdiction of the state board of pardons as provided by law, or retain such jurisdiction with his court. Prior to the revocation of an order suspending or deferring the imposition of sentence, the person affected shall be given a hearing.

Withdrawal of plea on deferred imposition.

95-2207. **Withdrawal of Plea on a Deferred Imposition.** Whenever the court has deferred the imposition of sentence, and after termination of the time period during which imposition of sentence has been deferred upon motion of the court, the defendant or the defendant's attorney, the court may allow the defendant to withdraw his plea of guilty, or may strike the verdict of guilty from the record, and order that the charge or charges against him be dismissed.

Judgment to pay fine constitutes a lien.

95-2208. **Judgment to Pay Fine Constitutes a Lien.** The judgment shall be reduced to writing and signed by the judge. A judgment that the defendant pay a fine or costs constitutes a lien upon the real estate of the defendant, which lien dates from the date of the defendant's arrest.

Entry of judgment and judgment roll.

95-2209. **Entry of Judgment and Judgment Roll.** When judgment upon a conviction is rendered the clerk must enter the same in the minutes, stating briefly the offense for which the conviction was had, and the fact of prior convictions (if any), and must, within five days, annex together and file the following papers, which will constitute the judgment roll:

(1) The indictment or information and a copy of the minutes of the arraignment, pleas and motions.

(2) A copy of the minutes of the trial.

(3) The instructions given or refused and the indorsements thereon.

HeinOnline -- 1967 vol. I 427 1967

(4) A copy of the judgment.

Information from courts.

95-2210. **Information From Courts.** It shall be the duty of the court disposing of any criminal case to cause to be transmitted to the board of pardons statistical data in accordance with regulations issued by the board regarding all dispositions of defendants whether found guilty or discharged.

Review of sentence.

95-2211. **Review of Sentence.** Every sentence shall be subject to review in accordance with Chapter 25, Review of Sentence.

Sentence to be imposed by judge.

95-2212. **Sentence to Be Imposed by Judge.** All sentences under this chapter shall be imposed exclusively by the judge of the court.

Merger of sentences.

95-2213. **Merger of Sentences.** Unless the judge otherwise orders,

(a) when a person serving a term of commitment imposed by a court in this state is committed for another offense, the shorter term or shorter remaining term shall be merged in the other term, and

(b) when a person under suspended sentence or on probation or parole for an offense committed in this state is sentenced for another offense, the period still to be served on suspended sentence, probation, or parole shall be merged in any new sentence of commitment or probation.

(c) The court merging the sentences shall forthwith furnish each of the other courts and penal institutions in which the defendant is confined under sentence with authenticated copies of its sentence, which shall cite the sentences being merged.

(d) If an unexpired sentence is merged pursuant to section (a), the court which imposed such sentence shall modify it in accordance with the effect of the merger.

(e) Separate sentences of two or more crimes shall run concurrently unless the court otherwise orders.

Credit for time served.

95-2214. **Credit for Time Served.** Where defendant has served any portion of his sentence under a commitment based upon a judgment which judgment is subsequently declared invalid or which is modified during the term of imprisonment, such time shall be credited upon

HeinOnline -- 1967 vol. I 428 1967

any subsequent sentence he may receive upon a new commitment for the same criminal act or acts. In calculating the time imprisoned, the person so convicted shall have the credit for all the time earned in diminution of sentence as provided under Montana statutes, section 80-1905, unless the sentencing authority in its discretion may choose to deny such credit.

95-2215. **Credit for Incarceration Prior to Conviction.** Credit for incarceration prior to conviction.

(a) Any person incarcerated on a bailable offense and against whom a judgment of imprisonment is rendered shall be allowed credit for each day of incarceration prior to or after conviction except that in no case shall the time allowed as a credit exceed the term of the prison sentence rendered.

(b) Any person incarcerated on a bailable offense who does not supply bail and against whom a fine is levied on conviction of such offense shall be allowed a credit of $10 for each day so incarcerated prior to conviction except that in no case shall the amount so allowed or credited exceed the amount of the fine.

95-2216. **Jail Work Release Program.** Jail work release program.

(a) A court, after having sentenced a person to confinement in a county jail, may, in its discretion, upon request of the county attorney and sheriff of such county, and with the consent of the convicted person, order that any part of the imprisonment so imposed be served in confinement, with parole during the hours or periods the convicted person is actually employed.

(b) Upon the issuance of such an order under this act, the sheriff shall arrange for the convicted person to continue his regular employment without interruption insofar as is reasonably possible; provided, however, that said prisoner shall be confined in the county jail during the hours when he is not employed.

(c) The earnings of the prisoner shall be collected by the sheriff. From such earnings, the sheriff shall pay the prisoner's board and personal expenses, both inside and outside the jail and, to the extent directed by the court, pay the support of his dependents, if any, and any balance shall be retained until his discharge.

(d) The committing court may, in its discretion, upon request of the county attorney and sheriff of such county,

HeinOnline -- 1967 vol. I 429 1967

reduce the sentence of the prisoner up to one-fourth of the full term, if, in the opinion of the court, the prisoner's conduct, diligence and general attitude merit such diminution.

(e) In cases where the convicted person violates the conditions of said sentence, he shall be returned to the court; the court may then require that the balance of his sentence be spent in full confinement and, further, the court may cancel any diminution of sentence granted under this act.

(f) The court may, by order, authorize the sheriff of the sentencing county to arrange with a sheriff of any other county within the State of Montana, to have the convicted person transferred to the other county where it appears the convicted person can continue his regular employment in the latter county; provided, however, when such transfer has been made to another county, the sheriff of the sentencing county shall still collect all moneys earned by the convicted person, and shall dispose of said moneys as provided by subsection (c) of this section.

Execution of sentence.

CHAPTER 23. EXECUTION OF SENTENCE.

Commitment of defendant.

95-2301. **Commitment of defendant.** Upon rendition of judgment after pronouncement of a sentence imposing punishment of imprisonment or death the court shall commit the defendant to the custody of the sheriff who shall deliver the defendant to the place of his confinement or execution.

Execution of a fine.

95-2302. **Execution of a fine.**

(a) If the judgment is for a fine alone, execution may issue thereon as on a judgment in a civil case.

(b) If the judgment is for a fine and imprisonment until fine be paid, the defendant must be committed to the custody of the proper officer, and by him detained until the judgment is complied with. The imprisonment must not exceed one day for every $10 of the fine.

Execution of death.

95-2303. **Execution of death.**

(a) The punishment of death must be inflicted by hanging the defendant by the neck until he is dead.

HeinOnline -- 1967 vol. I 430 1967

(b) In pronouncing the sentence of death, the court shall set the date of execution which must not be less than thirty nor more than sixty days from the date the sentence is pronounced.

(c) A sentence of death must be executed within the walls or yard of a jail or some convenient private place in the county where the trial took place.

(d) The sheriff of the county must be present and shall supervise such execution which shall be conducted in the presence of a physician, the county attorney of the county, and at least 12 reputable citizens to be selected by the sheriff. The sheriff shall at the request of the defendant, permit such priests or ministers, not exceeding two, as the defendant may name and only persons, relatives or friends, not to exceed five, to be present at the execution, together with such peace officers as he may think expedient, to witness the execution. No other persons than those mentioned in this subsection can be present at the execution, nor can any person under age be allowed to witness the same.

(e) After the execution, the sheriff must make a return upon the death warrant, showing time, mode and manner in which it was executed.

Lack of mental fitness of defendant.

95-2304. **Lack of Mental Fitness of the Defendant.** If, after judgment of death, there is good reason to suppose than the defendant lacks mental fitness, the mental fitness of the defendant will be determined in accordance with the provisions of Chapter 5, Competency of the Accused.

Proceedings upon finding of lack of mental fitness.

95-2305. **Proceedings upon finding of lack of mental fitness.** If it is found that defendant is mentally fit as provided in section 95-2304, the sheriff must execute the judgment; but if it is found that he lacks fitness, the execution of judgment must be suspended and the court shall commit him to the custody of the superintendent of the Montana state hospital, to be placed in an appropriate institution of the state department of public institutions for so long as such lack of fitness shall endure. When the court, on its own motion or upon application of the superintendent of the Montana state hospital, or the county prosecuting officer, or the defendant or his legal representative, determines after a hearing if a hearing is requested, that the defendant has regained fitness to proceed, the sheriff shall be directed by the court to carry

HeinOnline -- 1967 vol. I 431 1967

out the execution. If, however, the court is of the view that so much time has elapsed since the commitment of the defendant, that it would be unjust to proceed with execution of the sentence, the court may suspend the execution of the sentence and may order the defendant to be discharged.

Proceedings when female is claimed to be pregnant.

95-2306. **Proceedings when female is claimed to be pregnant.** If there is good reason to suppose a woman against whom a judgment of death is rendered is pregnant, the sheriff of the county, with the concurrence of the judge of the court by which the judgment was rendered, must summon a jury of three physicians to inquire into the supposed pregnancy. Immediate notice of this inquiry must be given to the county attorney of the county who must attend the inquiry and may produce his own witnesses.

Proceedings upon finding of pregnancy.

95-2307. **Proceedings upon the finding of pregnancy.** If it is found by the inquiry that the woman is not pregnant, the sheriff must execute the judgment; if it is found that the woman is pregnant, the sheriff must suspend the execution of judgment, and transmit the inquisition to the governor. When the governor is satisfied that the woman is no longer pregnant, he may issue his warrant appointing a day for the execution of the judgment.

Western Interstate Corrections Compact—contents.

95-2308. **Western interstate corrections compact—contents.** The western interstate corrections compact as contained herein is hereby enacted into law and entered into on behalf of this state with any and all other states legally joining therein in a form substantially as follows:

Purpose and policy.

1. **Purpose and policy** The party states, desiring by common action to improve their institutional facilities and provide programs of sufficiently high quality for the confinement, treatment and rehabilitation of various types of offenders, declare that it is the policy of each of the party states to provide such facilities and programs on a basis of cooperation with one another, thereby serving the best interests of such offenders and of society. The purpose of this compact is to provide for the development and execution of such programs of cooperation for the confinement, treatment and rehabilitation of offenders.

Definitions.

2. **Definitions.** As used in this compact, unless the context clearly requires otherwise:

HeinOnline -- 1967 vol. I 432 1967

(a) "State" means a state of the United States, or subject to the limitation contained in subsection 7, Guam. "State."

(b) "Sending state" means a state party to this compact in which conviction was had. "Sending state."

(c) "Receiving state" means a state party to this compact to which an inmate is sent for confinement other than a state in which conviction was had. "Receiving state."

(d) "Inmate" means a male or female offender who is under sentence to or confined in a prison or other correctional institution. "Inmate."

(e) "Institution" means any prison, reformatory or other correctional facility (including but not limited to a facility for the mentally ill or mentally defective) in which inmates may lawfully be confined. "Institution."

3. **Contracts.** Contracts.

(a) Each party state may make one or more contracts with any one or more of the other party states for the confinement of inmates on behalf of a sending state in institutions situated within receiving states. Any such contract shall provide for: To provide for.

(i) Its duration.

(ii) Payments to be made to the receiving state by the sending state for inmate maintenance, extraordinary medical and dental expenses, and any participation in or receipt by inmates of rehabilitative or correctional services, facilities, programs or treatment not reasonably included as part of normal maintenance.

(iii) Participation in programs of inmate employment, if any; the disposition or crediting of any payments received by inmates on account thereof; and the crediting of proceeds from or disposal of any products resulting therefrom.

(iv) Delivery and retaking of inmates.

(v) Such other matters as may be necessary and appropriate to fix the obligations, responsibilities and rights of the sending and receiving states.

(b) Prior to the construction or completion of construction of any institution or addition thereto by a party state, any other party state or states may contract there-

HeinOnline -- 1967 vol. I 433 1967

with for the enlargement of the planned capacity of the institution or addition thereto, or for the inclusion therein of particular equipment or structures, and for the reservation of a specific per centum of the capacity of the institution to be kept available for use by inmates of the sending state or states so contracting. Any sending state so contracting may, to the extent that moneys are legally available therefor, pay to the receiving state, a reasonable sum as consideration for such enlargement of capacity, or provision of equipment or structures, and reservation of capacity. Such payment may be in a lump sum or in installments as provided in the contract.

(c) The terms and provisions of this compact shall be a part of any contract entered into by the authority of or pursuant thereto, and nothing in any such contract shall be inconsistent therewith.

Procedures and rights.

4. **Procedures and rights.**

(a) Whenever the duly constituted judicial or administrative authorities in a state party to this compact, and which has entered into a contract pursuant to subsection 3, shall decide that confinement in, or transfer of an inmate to, an institution within the territory of another party state is necessary in order to provide adequate quarters and care or desirable in order to provide an appropriate program of rehabilitation or treatment, said officials may direct that the confinement be within an institution within the territory of said other party state, the receiving state to act in that regard solely as agent for the sending state.

(b) The appropriate officials of any state party to this compact shall have access, at all reasonable times, to any institution in which it has a contractual right to confine inmates for the purpose of inspecting the facilities thereof and visiting such of its inmates as may be confined in the institution.

(c) Inmates confined in an institution pursuant to the terms of this compact shall at all times be subject to the jurisdiction of the sending state and may at any time be removed therefrom for transfer to a prison or other institution within the sending state, for transfer to another institution in which the sending state may have a contractual or other right to confine inmates, for release on probation or parole, for discharge, or for any other purpose

HeinOnline -- 1967 vol. I 434 1967

permitted by the laws of the sending state; provided that the sending state shall continue to be obligated to such payments as may be required pursuant to the terms of any contract entered into under the terms of subsection 3.

(d) Each receiving state shall provide regular reports to each sending state on the inmates of that sending state in institutions pursuant to this compact including a conduct record of each inmate and certify said record to the official designated by the sending state, in order that each inmate may have the benefit or his or her record in determining and altering the disposition of said inmate in accordance with the law which may obtain in the sending state and in order that the same may be a source of information for the sending state.

(e) All inmates who may be confined in an institution pursuant to the provisions of this compact shall be treated in a reasonable and humane manner and shall be cared for and treated equally with such similar inmates of the receiving state as may be confined in the same institution. The fact of confinement in a receiving state shall not deprive any inmate so confined of any legal rights which said inmate would have had if confined in an appropriate institution of the sending state.

(f) Any hearing of hearings to which an inmate confined pursuant to this compact may be entitled by the laws of the sending state may be had before the appropriate authorities of the sending state, or of the receiving state if authorized by the sending state. The receiving state shall provide adequate facilities for such hearings as may be conducted by the appropriate officials of a sending state. In the event such hearing or hearings are had before officials of the receiving state, the governing law shall be that of the sending state and a record of the hearing or hearings as prescribed by the sending state shall be made. Said record together with any recommendations of the hearing officials shall be transmitted forthwith to the official or officials before whom the hearing would have been had if it had taken place in the sending state. In any and all proceedings had pursuant to the provisions of this subdivision, the officials of the receiving state shall act solely as agents of the sending state and no final determination shall be made in any matter except by the appropriate officials of the sending state.

HeinOnline -- 1967 vol. I 435 1967

(g) Any inmate confined pursuant to this compact shall be released within the territory of the sending state unless the inmate, and the sending and receiving states, shall agree upon release in some other place. The sending state shall bear the cost of such return to its territory.

(h) Any inmate confined pursuant to the terms of this compact shall have any and all rights to participate in and derive any benefits or incur or be relieved of any obligations or have such obligations modified or his status changed on account of any action or proceeding in which he could have participated if confined in any appropriate institution of the sending state located within such state.

(i) The parent, guardian, trustee, or other person or persons entitled under the laws of the sending state to act for, advise, or otherwise function with respect to any inmate shall not be deprived of or restricted in his exercise of any power in respect of any inmate confined pursuant to the terms of this compact.

Acts not reviewable in receiving state; extradition.

5. **Acts not reviewable in receiving state; extradition.**

(a) Any decision of the sending state in respect of any matter over which it retains jurisdiction pursuant to this compact shall be conclusive upon and not reviewable within the receiving state, but if at the time the sending state seeks to remove an inmate from an institution in the receiving state there is pending against the inmate within such state any criminal charge or if the inmate is suspected of having committed within such state a criminal offense, the inmate shall not be returned without the consent of the receiving state until discharged from prosecution or other form of proceeding, imprisonment or detention for such offense. The duly accredited officers of the sending state shall be permitted to transport inmates pursuant to this compact through any and all states party to this compact without interference.

(b) An inmate who escapes from an institution in which he is confined pursuant to this compact shall be deemed a fugitive from the sending state and from the state in which the institution is situated. In the case of an escape to a jurisdiction other than the sending or receiving state, the responsibility for institution of extradition proceedings shall be that of the sending state, but nothing contained herein shall be construed to prevent or affect the activities of officers and agencies of any

HeinOnline -- 1967 vol. I 436 1967

jurisdiction directed toward the apprehension and return of an escapee.

Federal aid.

6. **Federal aid.** Any state party to this compact may accept federal aid for use in connection with any institution or program, the use of which is or may be affected by this compact or any contract pursuant hereto and any inmate in a receiving state pursuant to this compact may participate in any such federally aided program or activity for which the sending and receiving states have made contractual provision provided that if such program or activity is not part of the customary correctional regimen the express consent of the appropriate official of the sending state shall be required therefor.

Entry into force.

7. **Entry into force.** This compact shall enter into force and become effective and binding upon the states so acting when it has been enacted into law by any two contiguous states from among the states of Alaska, Arizona, California, Colorado, Hawaii, Idaho, Montana, Nebraska, Nevada, New Mexico, Oregon, Utah, Washington and Wyoming. For the purposes of this article, Alaska and Hawaii shall be deemed contiguous to each other; to any and all of the states of California, Oregon and Washington; and to Guam. Thereafter, this compact shall enter into force and become effective and binding as to any other of said states, or any other state contiguous to at least one party state upon similar action by such state. Guam may become party to this compact by taking action similar to that provided for joinder by any other eligible party state and upon the consent of congress to such joinder. For the purposes of this article, Guam shall be deemed contiguous to Alaska, Hawaii, California, Oregon and Washington.

Withdrawal and termination.

8. **Withdrawal and termination.** This compact shall continue in force and remain binding upon a party state until it shall have enacted a statute repealing the same and providing for the sending of formal written notice of withdrawal from the compact to the appropriate officials of all other party states. An actual withdrawal shall not take effect until two years after the notices provided in state statute have been sent. Such withdrawal shall not relieve the withdrawing state from its obligations assumed hereunder prior to the effective date of withdrawal. Before the effective date of withdrawal, a withdrawing state shall remove to its territory, at its own expense, such in-

HeinOnline -- 1967 vol. I 437 1967

mates as it may have confined pursuant to the provisions of this compact.

Other arrangements unaffected.

9. **Other arrangements unaffected.** Nothing contained in this compact shall be construed to abrogate or impair any agreement or other arrangement which a party state may have with a nonparty state for the confinement, rehabilitation or treatment of inmates nor to repeal any other laws of a party state authorizing the making of cooperative institutional arrangements.

Construction and severability.

10. **Construction and Severability.** The provisions of this compact shall be liberally construed and shall be severable. If any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any participating state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state participating therein, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

Commitment or transfer of inmate to institution outside of state.

95-2309. **Commitment or transfer of inmate to institution outside of state.** Any court or state agency having power to commit or transfer an inmate (as defined in section 95-2308, subsection 2(d) of the western interstate corrections compact) to any institution for confinement may commit or transfer such inmate to any institution outside this state if this state has entered into a contract or contracts for the confinement of inmates in said institution pursuant to section 95-2308, subsection 3 of the western interstate corrections compact.

Effectuation of purposes of compact.

95-2310. **Effectuation of purposes of compact.** The courts, departments, agencies and officers of this state and its subdivisions shall enforce this compact and shall do all things appropriate to the effectuation of its purposes and intent which may be within their respective jurisdictions including but not limited to the making and submission of such reports as are required by the compact.

Hearings requested by other states—power of state to hold.

95-2311. **Hearings requested by other states—power of board of pardons and paroles and state department of**

HeinOnline -- 1967 vol. I 438 1967

institutions to hold. The board of pardons and paroles and the state department of institutions are hereby authorized and directed to hold such hearings as may be requested by any other party state pursuant to section 95-2308, subsection 4(f) of the western interstate corrections compact.

95-2312. **Governor—power to enter into contracts.** The governor is hereby empowered to enter into such contracts recommended by the department of institutions on behalf of this state as may be appropriate to implement the participation of this state in the western interstate corrections compact pursuant to section 95-2308 thereof.

Governor—power to enter into contracts.

CHAPTER 24.

Appeal by state and defendant.

APPEAL BY STATE AND DEFENDANT.

95-2401. **Application of chapter.**

Application.

(a) This chapter shall govern review in all criminal cases.

(b) All existing methods of review in criminal cases in the state are abolished. Hereafter the only method of review in criminal cases shall be by notice of appeal.

95-2402. **Suspension of the rules.** In the interest of expediting decision upon any matter before it, or for other good cause shown, the supreme court may suspend the requirements or provisions of these rules on application of a party or on its own motion and may order proceedings in accordance with its direction.

Suspension of rules.

95-2403. **Scope of appeal.**

Scope of appeal.

(a) Except as authorized by this code, the state may not appeal in a criminal case.

(b) The state may appeal from any court order or judgment the substantive effect of which results in:

(1) dismissing a case;

(2) modifying or changing the verdict as provided in section 95-2101(c)(3);

(3) granting a new trial;

(4) quashing an arrest or search warrant;

HeinOnline -- 1967 vol. I 439 1967

(5) suppressing evidence;

(6) suppressing a confession or admission; or

(7) granting or denying change of venue.

Scope of appeal —by defendant.

95-2404. **Scope of appeal, when may be taken by the defendant.**

(a) An appeal may be taken by the defendant only from a final judgment of conviction, and orders after judgment which affect the substantial rights of the defendant.

(b) Upon appeal from a judgment, the court may review the verdict or decision, and any order or decision objected to which involves the merits, or necessarily affects the judgment.

Procedure on appeal.

95-2405. **Procedure on appeal.**

(a) An appeal shall be taken by filing a notice of appeal in the court in which the judgment or order appealed from is entered or filed.

(b) **Content of the notice of appeal.** The notice of appeal shall specify the party or parties taking the appeal; and shall designate the judgment or order appealed from.

(c) **Service of notice of appeal.** The clerk of the district court shall serve notice of the filing of a notice of appeal by mailing a copy thereof to counsel of record of each party other than the appellant, or if a party is not represented by counsel, to the party at his last known address, and shall mail a copy of the notice of appeal to the clerk of the supreme court. The clerk of the district court shall note on each copy served the date on which the notice of appeal was filed. If an appellant is represented by counsel his counsel shall provide the clerk with sufficient copies of the notice of appeal to permit the clerk to comply with the requirements of this rule. Failure of the clerk to serve notice shall not affect the validity of the appeal. The notice shall be sufficient notwithstanding the death of a party or his counsel. The clerk shall note in the docket the names of the parties to whom he mails copies, with the date of mailing.

(d) The party appealing shall be known as the appellant and the adverse party as the respondent but the

HeinOnline -- 1967 vol. I 440 1967

title of the case shall not be changed in consequence of the appeal.

(e) An appeal from a judgment may be taken within 60 days after its rendition.

95-2406. **Stay of execution and relief pending appeal.** Stay of execution and relief pending appeal.

(a) **Death.** If an appeal is taken a sentence of death shall be stayed by order of the trial court until final order by the supreme court.

(b) **Imprisonment.** If an appeal is taken and the defendant is admitted to bail, a sentence of imprisonment shall be stayed by the trial court.

(c) **Fine.** If an appeal is taken, a sentence to pay a fine, or a fine and costs, shall be stayed by the trial court or by the reviewing court.

(d) **Probation.** If an appeal is taken and the accused was admitted to probation, he shall remain on probation or post bail.

95-2407. **Effect of an appeal by the state.** An appeal taken by the state in no case stays or affects the operation of the judgment or order in favor of the defendant until judgment or order is reversed. Effect on appeal by the state.

95-2408. **The record on appeal.** The record on appeal.

(a) **Composition of the Record on Appeal.** The original papers and exhibits filed in the district court, the transcript of proceedings, if any, and a certified copy of the docket entries prepared by the clerk of the district court shall constitute the record on appeal in all cases. Composition of record.

(b) **The Transcript of Proceedings; Duty of Appellant to Order, Notice to Respondent if Partial Transcript is Ordered; Cost of Producing.** Within 10 days after filing the notice of appeal the appellant shall order from the reporter a transcript of such parts of the proceedings not already on file as he deems necessary for inclusion in the record. In all cases where the appellant intends to urge insufficiency of the evidence to support the verdict, order or judgment in the district court, it shall be the duty of the appellant to order the entire transcript of the evidence. Wherever the sufficiency of the evidence to support a special verdict or answer by a jury to an interrogatory, or to support a specific finding of fact by the Transcript.

HeinOnline -- 1967 vol. I 441 1967

trial court, is to be raised on the appeal by the appellant, he shall be under a duty to include in the transcript all evidence relevant to such verdict, answer or finding. Unless the entire transcript is to be included, the appellant shall, within the time above provided, file and serve on the respondent a description of the parts of the transcript which he intends to include in the record and a statement of the issues which he intends to present on the appeal. If the respondent deems a transcript of other parts of the proceedings to be necessary he shall within 10 days after such filing and service order such parts from the reporter or procure an order from the district court requiring the appellant to so do.

The cost of producing the transcript shall be paid by the appellant, or he shall make satisfactory arrangements with the reporter for the payment of such cost; but, if the appellant considers that any part of the record designated by the respondent for inclusion is unnecessary for the determination of the issues presented, he shall advise the respondent, and the district court may impose upon the respondent the cost of producing any part which it deems unnecessary for the determination of the issues.

The reporter shall certify the correctness of the transcript.

Statement of evidence.

(c) **Statement of the Evidence or Proceedings When No Report Was Made or When the Transcript is Unavailable.** If no report of the evidence or proceedings at a hearing or trial was made, or if a transcript is unavailable, the appellant may, within 10 days from the hearing or trial or such time extended as the district court may for good cause shown permit, prepare a statement of the evidence or proceedings from the best available means, including his recollection. The statement shall be served on the respondent, who may serve objections or propose amendments thereto within 10 days after service. Thereupon, the statement and any objections or proposed amendments shall be submitted for settlement and approval to the district judge who handled the proceedings, and as settled and approved shall be included by the clerk of the district court in the record on appeal. A judge may settle and approve such records after he ceases to be a judge. If such judge before the statement is settled and approved dies, is removed from office, becomes disqualified, is absent from the state, or refuses to settle

HeinOnline -- 1967 vol. I 442 1967

and approve the statement, it shall be settled and approved in such manner as the Supreme Court may direct.

Agreed statement.

(d) **Agreed Statement as the Record on Appeal.** In lieu of the record on appeal as defined in subdivision (a) of this rule, the parties may prepare and sign a statement of the case showing how the issues presented by the appeal arose and were decided in the district court and setting forth only so many of the facts averred and proved or sought to be proved as are essential to a decision of the issue presented. If the statement conforms to the truth, it, together with such additions as the court may consider necessary fully to present the issues raised by the appeal, shall be approved by the district court and shall then be certified to the Supreme Court as the record on appeal and transmitted thereto by the clerk of the district court within the time provided by Section 95-2409. Copies of the agreed statement may be filed as the appendix required by section 95-2418.

Correction or modification of record.

(e) **Correction or Modification of the Record.** If any difference arises as to whether the record truly discloses what occurred in the district court, the difference shall be submitted to and settled by that court and the record made to conform to the truth. If anything material to either party is omitted from the record by error or accident or is misstated therein, the parties by stipulation, or the district court, either before or after the record is transmitted to the Supreme Court, on proper suggestion or of its own initiative, may direct that the omission or misstatement be corrected, and if necessary that a supplemental record be certified and transmitted. All other questions as to the form and content of the record shall be presented to the Supreme Court.

Transmission of record.

95-2409. **Transmission of the Record.**

Time.

(a) **Time for Transmission; Duty of Appellant.** The record on appeal, including the transcript necessary for the determination of the appeal, shall be transmitted to the Supreme Court within 40 days after the filing of the notice of appeal unless the time is shortened or extended by an order entered under subdivision (c) of this section. Promptly after filing the notice of appeal the appellant shall comply with the provisions of section 95-2408(b) and shall take any other action necessary to enable the clerk to assemble and transmit the record. If more than

HeinOnline -- 1967 vol. I 443 1967

one appeal is filed, each appellant shall comply with the provisions of section 95-2408(b) and this subdivision, and a single record shall be transmitted within 40 days after the filing of the final notice of appeal.

Duty of clerk.

(b) **Duty of Clerk to Transmit the Record.** When the record is complete for purposes of the appeal, the clerk of the district court shall transmit it to the clerk of the Supreme Court. The clerk shall number the documents comprising the record and shall transmit with the record a numbered list of the documents, identifying each with reasonable definiteness. Documents in bulky containers and physical exhibits other than documents shall not be transmitted by the clerk unless he is directed to do so by a party or by the clerk of the Supreme Court. A party must make advance arrangements with the clerk of the district court for the transportation of bulky or weighty exhibits and with the clerk of the Supreme Court for their receipt. Transmission of the record is effected when the clerk of the district court mails or otherwise forwards the record to the Supreme Court. The clerk of the district court shall indicate, by endorsement on the face of the record or otherwise, the date upon which it is transmitted to the Supreme Court.

Extension of time.

(c) **Extension of Time for Transmission of the Record; Reduction of Time.** The district court may extend the time for transmitting the record. The request for extension must be made within the time originally prescribed or within an extension previously granted, and the district court shall not extend the time to a day more than 90 days from the date of filing of the first notice of appeal. If the district court is without authority to grant the relief sought or has denied a request therefor, the Supreme Court may on motion extend the time for transmitting the record or may permit the record to be transmitted and filed after the expiration of the time allowed or fixed. A motion for an extension of time for transmitting the record made in either court shall show that the inability of the appellant to cause timely transmission of the record is due to causes beyond his control or to circumstances which may be deemed excusable neglect. If a request for an extension of time for transmitting the record has been previously denied, the motion shall set forth the denial and shall state the reasons therefor, if any were given.

HeinOnline -- 1967 vol. I 444 1967

The district court or the Supreme Court may require the record to be transmitted and the appeal to be docketed at any time within the time otherwise fixed or allowed therefor.

Retention of record in district court.

(d) **Retention of the Record in the District Court by Order of Court.** The Supreme Court may provide by rule or order that a certified copy of the docket entries shall be transmitted in lieu of the entire record, subject to the right of any party to request at any time during the pendency of the appeal that designated parts of the record be transmitted.

If the record is required in the district court for use there pending the appeal, the district court may make an order to that effect, and the clerk of the district court shall retain the record and shall transmit a copy of the order and of the docket entries together with such parts as the parties may designate.

If the record is retained in the district court by order of either court, the clerk of the district court shall retain it subject to the order of the Supreme Court, and transmission of the copy of the docket entries shall constitute transmission of the record.

Stipulation to retention.

(e) **Stipulation of Parties that Parts of the Record Be Retained in the District Court.** The parties may agree by written stipulation filed in the district court that designated parts of the record shall be retained in the district court unless thereafter the Supreme Court shall order or any party shall request their transmittal. The parts thus designated shall nevertheless be a part of the record on appeal for all purposes.

Docketing of appeal—filing record.

95-2410. **Docketing the Appeal; Filing of the Record.**

(a) The clerk shall enter the appeal upon the docket at or before the time of filing the record. An appeal shall be docketed under the title given to the action in the district court with such addition as is necessary to indicate the identity of the appellant.

(b) **Filing of the Record.** Upon receipt of the record by the clerk of the Supreme Court following its timely transmittal, and after the appeal has been timely docketed, the clerk shall file the record without the necessity of a docketing fee. The clerk shall immediately give

HeinOnline -- 1967 vol. I 445 1967

notice to all parties of the date on which the record was filed.

(c) **Dismissal for Failure of Appellant to Cause Timely Transmission or to Docket Appeal.** If the appellant shall fail to cause timely transmission of the record, any respondent may file a motion in the Supreme Court to dismiss the appeal. The motion shall be supported by a certificate of the clerk of the district court showing the date and substance of the judgment or order from which the appeal was taken, the date on which the notice of appeal was filed, and the expiration date on which the notice of appeal was filed, and the expiration date of any order extending the time for transmitting the record; and by proof that 7 days' notice in writing has been served on the appellant that application will be made for dismissal of the appeal. Instead of filing a motion to dismiss the appeal, the respondent may cause the record to be transmitted and may docket the appeal, in which event the appeal shall proceed as if the appellant had caused it to be docketed.

Effect of dismissal.

95-2411. **Effect of Dismissal.** The dismissal of an appeal is in effect an affirmance of the judgment or order appealed from, unless the dismissal is expressly made without prejudice to another appeal.

Review of ruling against respondent.

95-2412. **Ruling Against Respondent May Be Reviewed.** Whenever the record on appeal shall contain any order, ruling, or proceeding of the trial court against the respondent, affecting his substantial rights on the appeal of said cause, together with any required objection of such respondent, the Supreme Court on such appeal shall consider such orders, rulings, or proceedings, and the objections thereto, and shall reverse or affirm the cause on said appeal according to the substantial rights of the respective parties, as shown upon the record. No cause shall be reversed by reason of any error committed by the trial court against the appellant, unless the record shows that the error was prejudicial.

Filing and service.

95-2413. **Filing and Service.**

(a) **Filing.** Papers required or permitted to be filed must be placed in the custody of the clerk within the time fixed for filing. Filing may be accomplished by mail addressed to the clerk, but filing shall not be timely unless the papers are actually received within the time

HeinOnline -- 1967 vol. I 446 1967

fixed for filing. If a motion requests relief which may be granted by a single judge the judge may permit the motion to be filed with him in which event he shall note thereon the dates of filing and shall thereafter transmit it to the clerk.

(b) **Service of all Papers Required.** Copies of all papers, including any transcript, filed by any party and not required by these rules to be served by the clerk shall, at or before the time of filing, be served by the party or person acting for him on all other parties to the appeal or review. Service on a party represented by counsel shall be made on counsel.

(c) **Manner of Service.** Service may be personal or by mail. Personal service includes delivery of the copy to a clerk or other responsible person at the office of counsel. Service by mail is complete on mailing.

(d) **Proof of Service.** Papers presented for filing shall contain acknowledgment of service by the person served or proof of service in the form of a statement of the date and manner of service and of the names of the persons served, certified by the person who made service. Proof of service may appear on or be affixed to the papers filed. The clerk may permit papers to be filed without acknowledgment of proof of service but shall require such to be filed promptly thereafter.

95-2414. **Computation and Extension of Time.** Computation and extension of time.

(a) **Computation of Time.** In computing any period of time prescribed by these Rules, by an order of court, or by any applicable statute, the day of the act, event, or default from which the designated period of time begins to run shall not be included. The last day of the period shall be included, unless it is a Saturday, Sunday or a legal holiday. When the period of time prescribed or allowed is less than 7 days, intermediate Saturdays, Sundays and legal holidays shall be excluded in the computation.

(b) **Additional Time After Service by Mail.** Whenever a party is required or permitted to do any act within a prescribed period after service of a paper upon him and the paper is served by mail, 3 days shall be added to the prescribed period.

95-2415. **Motions.** Unless another form is prescribed by these rules, an application for an order or other relief Motions.

HeinOnline -- 1967 vol. I 447 1967

shall be made by filing a motion in writing for such order or relief. The motion shall state with particularity the grounds therefor and shall set forth the order or relief sought. If a motion is supported by briefs, affidavits or other papers, they shall be served and filed with the motion. Motions for procedural orders may be determined ex parte. The Supreme Court may authorize disposition of motions for procedural orders by a single judge. If a motion seeks dismissal of the appeal or other substantial relief, any party may file an answer in opposition within 7 days after service of the motion, or within such time as the court may direct. Motions, supporting papers and any response thereto may be typewritten.

At the time of filing a motion counsel shall present a proposed order, together with sufficient copies for service upon all counsel of record.

Briefs.

95-2416. **Briefs.**

(a) **Brief of the Appellant.** The brief of the appellant shall contain under appropriate headings and in the order here indicated:

(1) A table of contents, with page references, and a table of cases (alphabetically arranged), statutes and other authorities cited, with references to the pages of the brief where they are cited.

(2) A statement of the issues presented for review.

(3) A statement of the case. The statement shall first indicate briefly the nature of the case and its disposition in the court below.

There shall follow a statement of the facts relevant to the issues presented for review, with references to the pages of the parts of the record at which material facts appear (see subdivision (e)).

(4) An argument. The argument may be preceded by a summary. The argument shall contain the contentions of the appellant with respect to the issues presented, and the reasons therefor, with citations to the authorities, statutes and pages of the record relied on.

(5) A short conclusion stating the precise relief sought.

(b) **Brief of the Respondent.** The brief of the respondent shall conform to the requirements of subdivision

HeinOnline -- 1967 vol. I 448 1967

(a) (1)-(4), except that a statement of the issues or of the case need not be made unless the respondent is dissatisfied with the statement of the appellant.

(c) **Reply Brief.** The appellant may file a brief in reply to the brief of the respondent. The reply brief must be confined to new matter raised in the brief of the respondent. No further briefs may be filed except with leave of court.

(d) **References in Briefs to Parties.** Counsel will be expected in their briefs and oral arguments to keep to a minimum references to parties by such formal designations as "appellant" and "respondent." It promotes clarity to use names or descriptive terms such as "accomplice," "decedent," etc.

(e) **References in Briefs to the Record.** When a reference is made in the briefs to the record, the reference must be to particular parts of the record, suitably designated, and to specific pages of each part, e.g., Answer, p.7; Motion for Suppression of Evidence, p.3; transcript, p.231. Intelligible abbreviations may be used. If reference is made to an exhibit, reference shall be made to the pages of the transcript on which the exhibit was identified, offered, and received or rejected.

(f) **Reproduction of Statutes, Rules, Regulations, etc.** If determination of the issues presented requires the study of statutes, rules, regulations, etc., or relevant parts thereof, they may be reproduced in the brief or in an addendum at the end, or they may be supplied to the court in pamphlet form. No such reproduction is required, unless ordered by the Supreme Court.

(g) **Length of Briefs.** Except by permission of the court briefs shall not exceed 50 pages of standard typographic printing or 70 pages of printing by any other process of duplicating or copying, exclusive of pages containing the table of contents, tables of citations and any addendum containing statutes, rules, regulations, etc.

Amicus curiae brief.

95-2417. **Brief of an Amicus Curiae.** A brief of an amicus curiae may be filed only if accompanied by written consent of all parties, or by leave of court granted on motion. A motion for leave shall identify the interest of the applicant and shall state the reasons why a brief of an amicus curiae is desirable. A motion of an amicus

HeinOnline -- 1967 vol. I 449 1967

curiae for leave to participate in the oral argument will be granted only for extraordinary reasons.

Appendix.

95-2418. **The Appendix to the Briefs.**

(a) **Use of an Appendix.** At any time before final decision, the Supreme Court may order an appendix to any brief. Also, either the appellant or respondent may, if he deems it desirable, prepare, file and serve with his brief an appendix.

(b) **Contents of the Appendix.** Unless otherwise ordered by the Supreme Court, an appendix shall contain:

(1) the relevant docket entries in the proceeding below;

(2) any relevant pleading and relevant portions of the charge, finding and opinion;

(3) the judgment, order or decision in question; and

(4) such other parts of the record as any party deems it essential for the judges of the court to read in order to decide the issues presented. In designating parts of the record for inclusion in the appendix, the parties shall have regard for the fact that the entire record is always available to the court for reference or examination and shall not engage in unnecessary designation.

(c) **Arrangement of the Appendix.** At the beginning of the appendix there shall appear a chronological list of the parts of the record which it contains. Each part of the record shall be listed by the descriptive title given to that part by the reference made to it in the briefs. The page or pages of the appendix at which each part of the record thus listed appears shall be set out opposite each listing in a column at the right, so as to permit immediate location in the appendix of the parts of the record referred to in the briefs and contained in the appendix.

The relevant docket entries in the proceeding below shall follow the list of contents. Thereafter, the parts of the record shall be set out in chronological order. The original paging of each part of the record set out in the appendix shall be indicated by placing in brackets the number of the original page at the place where the page begins. Omissions in the text of papers or of testimony

HeinOnline -- 1967 vol. I 450 1967

must be indicated by asterisks. A question and its answer may be contained in a single paragraph.

(d) **Reproduction of Exhibits.** Exhibits may be contained in a separate volume, suitably indexed.

Filing and service of briefs.

95-2419. **Filing and Service of Briefs.**

(a) **Time for Filing Briefs.** The appellant shall serve and file his brief within 30 days after the date on which the record is filed. The respondent shall serve and file his brief within 30 days after service of the brief of the appellant. The appellant may serve and file a reply brief within 14 days after service of the brief of the respondent, but, except for good cause shown, a reply brief must be served and filed at least 3 days before argument.

(b) **Number of Copies to Be Filed and Served.** Six copies of each brief shall be filed with the clerk of the Supreme Court unless otherwise ordered by the Court, and one copy of each brief shall be served on counsel for each party separately represented. The clerk will not accept a brief for filing unless it is accompanied by acknowldegement or proof of service as required by Section 95-2413.

(c) **Consequences of Failure to File Briefs.** If an appellant fails to file his brief within the time provided by this rule, or within the time extended, a respondent may move for dismissal of the appeal. If a respondent fails to file his brief, he will not be heard at oral argument except by permission of the court.

Form of briefs, the appendix, motions and other papers.

95-2420. **Form of Briefs, the Appendix, Motions and Other Papers.**

(a) **Form of Briefs, Appendices and Separate Volumes of Exhibits.** Briefs, appendices and separate volumes of exhibits may be produced by standard typographic printing or by any duplicating or copying process capable of producing a clear black image on white paper. Typewritten copies of briefs, appendices and separate volumes of exhibits may not be submitted without permission of the Chief Justice of the Supreme Court, except in behalf of parties allowed to proceed in *forma pauperis*. Pica solid is the smallest letter and the most compact form of composition allowed for all printed matter. Briefs, appendices and separate volumes of exhibits shall be on white uncalendered book paper in book

HeinOnline -- 1967 vol. I 451 1967

or booklet form. If produced by the standard typographic printing process, the pages shall be ten inches long and seven inches wide, with a margin on the outer edge not less than one inch wide and on the inner edge not less than two inches wide. If produced by a duplicating or copying process, the pages shall be eleven inches long and eight and one-half inches wide, with a margin on the outer edge not less than one inch wide and on the inner edge not less than two inches wide. The pages shall be fastened at the side and numbered at the top.

(b) **Typewritten Papers and Motions.** Papers not required to be produced in a manner prescribed by subdivision (a) of this Rule shall be plainly and legibly written by a typewriter with a new black ribbon and new black carbon paper of good grade, in double spacing, except that quotations may be single spaced, on one side only of white typewriter paper, eight and one-half inches wide and thirteen inches long, numbered at the bottom, with a ruled margin of one and one-half inches on the left-hand side of the page and one inch on the right-hand side, and numbered lines, not more than thirty-two lines to the page. The pages shall be bound at the left-hand side into volumes not containing more than two hundred fifty pages; provided, however, that if the pages number fifty or less they may be bound at the top.

In collating typewritten papers the copies shall not be mixed, but each copy shall consist throughout of uniform pages. Each page of every copy shall be opaque and each line of print thereon plainly legible. The difficulty of examining transparent, illegible and non-uniform typewritten copies has become so great that this rule will be strictly applied and papers not complying with it will not be received.

(c) **First Page and Cover.** All papers shall be bound in cardboard or pasteboard covers, unless bound at the top under subdivision (b) of this section, in which case they may be bound in cover paper. On the first page and cover of all papers must be stated the title of the supreme court, the title of the case as in the court below, adding to the words "plaintiff" and "defendant," the words "appellant" and "respondent" as the case may require, the names of counsel for appellant and respondent, the title

HeinOnline -- 1967 vol. I 452 1967

of the papers, as "Appellant's Brief," "Appendix to Appellant's Brief," etc., and the venue from which the appeal is taken.

95-2421. **Oral Argument.** Oral argument.

(a) **Notice of Hearing; Postponement.** The clerk shall advise all parties of the time and place at which oral argument will be heard. A request for postponement of the hearing must be made by motion filed reasonably in advance of the date fixed for hearing.

(b) **Time Allowed for Argument.** Upon oral argument of an appeal or original proceeding, 40 minutes will be allowed appellant or applicant and 30 minutes to respondent. If counsel is of the opinion that additional time is necessary for the adequate presentation of his argument, he may request such additional time as he deems necessary by motion filed reasonably in advance of the date fixed for hearing. A party is not obliged to use all of the time allowed, and the court may terminate the argument whenever in its judgment further argument is unnecessary.

(c) **Order and Content of Argument.** The appellant or applicant is entitled to open and conclude the argument. The opening argument shall include a fair statement of the case, and the closing argument shall be limited to rebuttal of respondent's argument. Counsel will not be permitted to read at length from briefs, records or authorities.

(e) **Non-Appearance of Counsel; Failure to File Briefs.** If counsel for a party fails to appear to present argument, the court may hear argument on behalf of a party whose counsel is present, and the case will be decided on the briefs and the argument heard. If no counsel appear for any party, the case will be decided on the briefs unless the court shall otherwise order.

(f) **Submission on Briefs.** By agreement of the parties, a case may be submitted for decision on the briefs, but the court may direct that the case be argued.

(g) **Use of Physical Exhibits at Hearing; Removal.** If physical exhibits other than documents are to be used at the hearing, counsel shall arrange to have them placed in the court room before the court convenes on the date of the hearing. After the hearing counsel shall cause the

HeinOnline -- 1967 vol. I 453 1967

exhibits to be removed from the court room unless the court otherwise directs. If exhibits are not reclaimed by counsel within a reasonable time after notice is given by the clerk, they shall be destroyed or otherwise disposed of as the clerk shall think best.

Entry and notice of orders and judgments.

95-2422. **Entry and Notice of Orders and Judgments.** The notation of a judgment or order in the docket constitutes entry thereof. Upon entry of a judgment or order, the clerk shall promptly mail to all parties a copy of the judgment or order, and notice of the date of entry thereof.

Petitions for rehearing.

95-2423. **Petitions for Rehearing.** A petition for rehearing may be filed within 10 days after the decision of the Supreme Court has been rendered, unless the time is shortened or enlarged by order, and the adverse party shall have 7 days thereafter in which to serve and file his objections thereto. Extensions of time will be granted only upon showing of unusual merit and in no event in excess of 10 days. A petition for rehearing may be presented upon the following grounds and none others: That some facts, material to the decision, or some question decisive of the case submitted by counsel, was overlooked by the court, or that the decision is in conflict with an express statute or controlling decision to which the attention of the court was not directed. Oral argument in support of the petition will not be permitted. No reply to a petition for rehearing will be received unless requested by the court, but a petition for rehearing will ordinarily not be granted in the absence of such a request. Six copies of the petition, produced in accordance with section 95-2420(a), shall be filed with the clerk.

Calendar; withdrawal of records.

95-2424. **Calendar: Withdrawal of Records.**

(a) **Placing Causes Upon Calendar.** Thirty days after the appellant's brief has been filed, the cause shall be placed on the calendar as ready for oral argument.

(b) **Setting Causes for Argument.** Causes against defendants held in custody will be set for argument by the court in advance of causes against defendants on bail unless for good cause the court shall otherwise order.

(c) **Permission to Take Record from Clerk's Office.** The records and other papers of the Supreme Court shall

HeinOnline -- 1967 vol. I 454 1967

not be taken therefrom except by counsel pursuant to a written order of a justice of the court, which order shall specify the time the same may be retained out of the clerk's office; provided, that the court or a justice thereof may require the same to be returned within a shorter period upon notice. The clerk shall preserve each order and counsel's receipt until the papers therein mentioned shall be returned.

Substantial and insubstantial errors on appeal.

95-2425. **Substantial and Insubstantial Errors on Appeal.** Any error, defect, irregularity or variance which does not affect substantial rights shall be disregarded. Defects affecting jurisdictional or constitutional rights may be noticed although they were not brought to the attention of the trial court.

Determination of appeal.

95-2426. **Determination of Appeal.** On appeal the reviewing court may:

(1) Reverse, affirm or modify the judgment or order from which the appeal is taken;

(2) Set aside, affirm or modify any or all of the proceedings subsequent to or dependent upon the judgment or order from which the appeal is taken;

(3) Reduce the degree of the offense of which the appellant was convicted;

(4) Reduce the punishment imposed by the trial court; or

(5) Order a new trial if justice so requires.

Issuance of mandate, return of record and termination of jurisdiction.

95-2427. **Issuance of Mandate, Return of Record and Termination of Jurisdiction.** Upon termination of the appeal the Supreme Court shall remand the cause with proper instruction, together with the opinion of the court; and the clerk shall return all original documents to the trial court.

After the cause has been remanded to the trial court, the appellant court has no further jurisdiction of the appeal or the proceedings thereon, and all orders necessary to carry the judgment into effect must be made by the court to which the cause is remanded.

Indigent appeals.

95-2428. **Indigent Appeals.**

(a) Upon imposition of any sentence in a criminal case a defendant may file in the trial court a petition re-

HeinOnline -- 1967 vol. I 455 1967

questing that he be furnished with a transcript of the proceeding at his trial. The petition shall be verified by the petitioner and shall state facts showing that he is at the time of filing the petition without financial means to pay for the transcript. If the trial judge who imposed sentence or in his absence any judge of the court finds that the defendant is without financial means with which to obtain the transcript of the proceedings at his trial he shall order the official court reporter to transcribe an original and copy of his notes of the proceedings at the trial. The original of the report of proceedings shall be filed with the clerk of the trial court and the copy shall be delivered to the defendant without charge.

(b) **Application to the Supreme Court.** If the petition provided for in subsection (a) is denied by the trial court, a petition so to proceed may be filed in the Supreme Court within 30 days after entry of the denial. The petition shall be accompanied by a copy of the verification filed in the trial court and of the statement of reasons for denial given by the trial court.

Appeal by one defendant.

95-2429. **Appeal by One Defendant.** When several defendants are tried jointly, any one or more of them may take an appeal; but those who do not join in the appeal shall not be affected thereby.

Defendant discharged on reversal of judgment.

95-2430. **Defendant Discharged on Reversal of Judgment.** If a judgment against the defendant is reversed without ordering a new trial, the appellate court must, if he is in custody, direct him to be discharged therefrom; or if on bail, that his bail be exonerated; or if money was deposited instead of bail, that it be refunded to the defendant.

Appellate review of legal sentences.

CHAPTER 25

APPELLATE REVIEW OF LEGAL SENTENCES

Review division of supreme court.

95-2501. **Review Division of the Supreme Court for Review of Certain Sentences.** The Chief Justice of the Supreme Court of Montana shall appoint three district court judges to act as a review division of the Supreme Court and shall designate one of such judges to act as chairman thereof. The clerk of the Montana Supreme Court shall record such appointment and shall give notice thereof to the clerk of every district court. This review division shall meet at least four times a year or more as

HeinOnline -- 1967 vol. I 456 1967

its business requires as determined by the chairman. The decision of any two of such judges shall be sufficient to determine any matter before the review division. No judge shall sit or act on a review of sentence imposed by him. In any case in which review of a sentence imposed by any of the judges serving on the review division is to be acted on by said division, the Chief Justice of the Supreme Court of Montana may designate another judge to act in place of such judge. The review division shall hold its meetings at Deer Lodge, and may adopt any rules and regulations which will expedite their review of sentences. The division is also authorized to appoint a secretary and such clerical help as it deems adequate and fix their compensation.

Procedure for review.

95-2502. **Procedure for Review.** Any person sentenced to a term of one year or more in the state prison by any court of competent jurisdiction may, within sixty (60) days from the date such sentence was imposed, except in any case in which a different sentence could not have been imposed, file with the clerk of the district court in the county in which judgment was rendered, an application for review of the sentence by the review division. Upon imposition of the sentence the clerk shall give written notice to the person sentenced of his right to make such a request. Such notice shall include a statement that review of the sentence may result in decrease or increase of the sentence within limits fixed by law. The clerk shall transmit such application to the review division and shall notify the judge who imposed the sentence, and the county attorney of the county in which the sentence was imposed. Such judge may transmit to the review division a statement of his reasons for imposing the sentence, and shall transmit such a statement within seven days, if requested to do so by the review division. The review division may for cause shown consider any late request for review of sentence and may grant such request. The filing of an application for review shall not stay the execution of the sentence.

Review—decision.

95-2503. **Review. Decision.** The review division shall, in each case in which an application for review is filed in accordance with section 95-2502, review the judgment so far as it relates to the sentence imposed, either increasing or decreasing the penalty, and any other sentence imposed on the person at the same time, and may order such

HeinOnline -- 1967 vol. I 457 1967

different sentence or sentences to be imposed as could have been imposed at the time of the imposition of the sentence under review, or may decide that the sentence under review should stand. In reviewing any judgment, said division may require the production of pre-sentence reports and any other records, documents or exhibits relevant to such review proceedings. The appellant may appear and be represented by counsel, and the state may be represented by the county attorney of the county in which the sentence was imposed. If the review division orders a different sentence, the court sitting in any convenient county shall resentence the defendant as ordered by the review division. Time served on the sentence reviewed shall be deemed to have been served on the sentence substituted. The decision of the review division in each case shall be final and the reasons for such decision shall be stated therein. The original of each decision shall be sent to the clerk of the court for the county in which the judgment was rendered and a copy shall be sent to the judge who imposed the sentence reviewed, the person sentenced, the principal officer of the institution in which he is confined and the decision shall be reported in the Montana Reports.

Scope of act.

95-2504. **Scope of Act.** A person who on the effective date of this act is imprisoned under a sentence to the state prison and who is not eligible for parole may, notwithstanding the partial execution of such sentence, file for a review of such sentence and of any other sentence imposed at that time; provided, that at the time of such request for review such person shall execute a written consent to such sentence as may be imposed by the review division on such review, including an increased term. No such application shall be considered if taken later than two years after the effective date of this act nor in any case in which a different sentence could not have been imposed.

Post-conviction hearing.

CHAPTER 26

POST-CONVICTION HEARING

Petition in the trial court.

95-2601. **Petition in the Trial Court.** Any person adjudged guilty of an offense in a court of record who has no adequate remedy of appeal and who claims sentence was imposed in violation of the constitution or the laws of this state or the Constitution of the United States, or

HeinOnline -- 1967 vol. I 458 1967

that the court was without jurisdiction to impose such sentence, or that sentence was in excess of the maximum authorized by law, or is otherwise subject to collateral attack, upon any ground of alleged error available under writ of habeas corpus, writ of coram nobis, or other common law or statutory remedy may move the court which imposed the sentence or the Supreme Court or any justice of the Supreme Court to vacate, set aside, or correct the sentence.

Proceedings commenced by petition.

95-2602. **Proceedings Commenced by Petition.** The proceeding shall be commenced by filing with the clerk of the court in which the conviction took place or the clerk of the Supreme Court a verified petition. The clerk shall docket the petition upon his receipt and bring the same promptly to the attention of the court.

Contents of the petition.

95-2603 **Contents of the Petition.** The petition shall identify the proceedings in which the petitioner was convicted, give date of the rendition of the final judgment complained of, and clearly set forth the alleged violation or violations. The petition shall have attached thereto affidavits, records or other evidence supporting its allegations or shall state why the same are not attached. They shall identify any previous proceedings that the petitioner may have taken to secure relief from his conviction. Arguments and citations and discussion of authorities shall be omitted from this petition.

When motions may be made.

95-2604. **When Motion May Be Made.** A motion for such relief may be made at any time after conviction.

Proceedings on the petition.

95-2605. **Proceedings on the Petition.** Unless the motion and the files and records of the case conclusively show that the prisoner is entitled to no relief, the court shall cause notice thereof to be served upon the county attorney in the county in which the conviction took place, grant a prompt hearing thereon, determine the issue and make findings of fact and conclusions with respect thereto.

The court may receive proof by affidavits, depositions, oral testimony or other evidence. In its discretion the court may order the petitioner brought before the court for the hearing. If the court finds in favor of the petitioner, it shall enter an appropriate order with respect to the judgment or sentence in the former proceedings and such supplementary orders as to reassignment, re-

HeinOnline -- 1967 vol. I 459 1967

trial, custody, bail or discharge as may be necessary and proper. If the court finds for the state the petitioner shall be returned to the custody of the person to whom the writ was directed.

Record must be kept.

95-2606. **Record Must Be Kept.** A court which entertains a motion pursuant to this chapter must keep a record of the proceedings and enter its findings and conclusions.

Successive petitions not allowed.

95-2607. **Successive Petitions Not Allowed.** All grounds for relief claimed by a petitioner under this act must be raised in his original or amended petition, and any grounds, other than constitutional grounds not so raised are waived unless the court on hearing a subsequent petition finds grounds for relief asserted therein which could not reasonably have been raised in the original or amended petition.

Review.

95-2608. **Review.** Either the petitioner or the state may appeal to the Supreme Court of Montana from an order entered on the motion. The appeal shall be taken within six months from the entry of the order.

Habeas corpus.

CHAPTER 27

HABEAS CORPUS

Who may prosecute writ.

95-2701. **Who May Prosecute Writ.** Every person imprisoned or otherwise restrained of his liberty, within this state, may prosecute a writ of habeas corpus to inquire into the cause of such imprisonment or restraint, and if illegal to be delivered therefrom.

Writ for purpose of bail.

95-2702. **Writ for Purpose of Bail.** When a person is imprisoned or detained in custody on any criminal charge, for want of bail, such person is entitled to a writ of habeas corpus for the purpose of giving bail, upon averring that fact in his petition, without alleging that he is illegally confined.

Application for, how made.

95-2703. **Application for, how made.** Application for the writ is made by petition, signed either by the party for whose relief it is intended, or by some person in his behalf, and must specify:

(a) That the person in whose behalf the writ is applied for is unlawfully imprisoned or restrained of his liberty, why the imprisonment or restraint is unlawful,

HeinOnline -- 1967 vol. I 460 1967

the officer or person by whom he is so confined or restrained, and the place where, naming all the parties if they are known, or describing them if they are not known.

(b) The petition must be verified by the oath or affirmation of the party making the application.

95-2704. **By whom issued and before whom returnable.** The writ of habeas corpus may be granted: By whom issued and before whom returnable.

(a) By the supreme court, or any justice thereof, upon petition by or on behalf of any person restrained of his liberty in this state. When so issued it may be made returnable before the court, or any justice thereof, or before any district court or judge thereof.

(b) By the district courts or a judge thereof, upon petition by or on behalf of any person restrained of his liberty in their respective counties or districts.

95-2705. **Writ granted without delay.** Any court or judge authorized to grant the writ, to whom a petition therefor is presented, must if it appears that the writ ought to issue, grant the same without delay. Writ granted without delay.

95-2706. **Refusal to obey writ.** If the person commanded by the writ refuses to obey he shall be adjudged in contempt of court. Refusal to obey writ.

95-2707. **Content of writ.** Content of writ.

(a) The writ must be directed to the person having custody of or restraining the person on whose behalf the application is made, and must command him to have the body of such person before the court, or judge, before whom the writ is returnable, at a time and place therein specified.

(b) The issue or issues to be determined upon return of the writ may be stated, either in the writ or in an order attached to the writ. If the issue or issues to be determined upon return of the writ are not stated therein, or in an order attached thereto then a copy of the petition must be attached to the writ.

95-2708. **Service of the writ.** Service of the writ.

(a) The writ must be served upon the person to whom it is directed. If the person to whom the writ is directed represents a state institution, a copy of the writ shall be

HeinOnline -- 1967 vol. I 461 1967

served upon the attorney general. If such person represents a county institution, a copy of the writ shall be served upon the county attorney.

(b) The writ shall be served by the clerk of court, the sheriff or any other officer directed to do so by the court.

(c) The writ shall be served in the same manner as a summons in civil actions, except when otherwise expressly directed by the court or judge.

Return, what to contain.

95-2709. **Return, what to contain.** The person upon whom the writ is served must make a return and state in his return:

(a) Whether he has the party in his custody or under his power or restraint.

(b) If he has the party in his custody or under his power or restraint, he shall state the authority for and cause of such custody or restraint. If the detention is by legal process a copy thereof must be annexed to the response.

(c) If he had the party in his custody or under his power or restraint at any time prior or subsequent to the date of the writ, but has transferred such custody or restraint to another, the return must state particularly to whom, at what time and place, for what cause and by what authority such transfer took place.

(d) The return must be signed by the person making the same, and, except when such person is a sworn public officer, and makes such return in his official capacity, is must be verified by his oath.

Production of person, exception for infirmity or illness.

95-2710. **Production of person, exception for infirmity or illness.** The person commanded by the writ shall bring the detained person according to the command of the writ unless it is made to appear by affidavit that because of sickness or infirmity such person cannot be brought before the judge without danger to his health. If the judge is satisfied with the truth of the affidavit he may proceed and dispose of the case as if the party had been produced, or the hearing may be postponed until the party can be present.

Hearing on return.

95-2711. **Hearing on return.**

(a) The court or judge before whom the writ is returned must, immediately after the return, proceed to hear and examine the return.

HeinOnline -- 1967 vol. I 462 1967

(b) The hearing on the writ may be summary in nature.

Production of evidence, depositions.

95-2712. **Production of evidence; depositions.** Evidence may be produced and compelled as in civil actions. Depositions taken in accordance with the rules of civil procedure may be read as evidence at the hearing on the writ.

Deposition of petitioner.

95-2713. **Disposition of petitioner.** If the court finds in favor of the petitioner, it shall enter an appropriate order with respect to the judgment or sentence in the former proceeding and such supplementary orders as to reassignment, retrial, custody, bail or discharge as may be necessary and proper. If the court finds for the state the petitioner shall be returned to the custody of the person to whom the writ was directed.

Appeal on order of judgment on habeas corpus.

95-2714. **Appeal on order of judgment on habeas corpus.** An appeal may be taken to the supreme court by the state from an order of judgment discharging the petitioner. The court may admit the petitioner to bail pending appeal. The appeal shall be taken in the same manner as in civil actions.

Writ and process —issuance.

95-2715. **Writ and process may issue at any time.** Any writ or process authorized by this chapter may be issued and served on any day or at any time.

No release for technical defects.

95-2716. **No release for technical defects.** A person may not be released on a writ of habeas corpus due to any technical defect in commitment not affecting his substantial rights.

Repealing clause.

Section 2. Sections 94-4716, 94-4716.1, 94-4717, 94-4803, 94-4805, 94-4901, 94-4902, 94-4903, 94-4904, 94-4905, 94-4906, 94-4907, 94-4908, 94-4909, 94-4910, 94-4911, 94-4912, 94-4913, 94-4914, 94-4915, 94-4916, 94-4917, 94-5601, 94-5602, 94-5603, 94-5604, 94-5605, 94-5606, 94-5607, 94-5608, 94-5609, 94-5610, 94-5611, 94-5612, 94-5613, 94-5614, 94-5615, 94-5616, 94-5617, 94-5618, 94-5619, 94-5801, 94-5802, 94-5803, 94-5804, 94-5805, 94-5901, 94-5902, 94-5903, 94-5904, 94-5905, 94-5906, 94-5907, 94-5908, 94-5909, 94-5910, 94-5911, 94-5912, 94-5913, 94-5914, 94-5915, 94-5916, 94-5917, 94-5918, 94-6001, 94-6002, 94-6003, 94-6004, 94-6005, 94-6006, 94-6007, 94-6008, 94-6009, 94-6010, 94-6011, 94-6012, 94-6013, 94-6014, 94-6015, 94-6016, 94-6017, 94-6018, 94-6019, 94-6020, 94-6021, 94-6022, 94-6023, 94-6024, 94-

HeinOnline -- 1967 vol. I 463 1967

6025, 94-6026, 94-6027, 94-6028, 94-6029, 94-6030, 94-6031, 94-6032, 94-6033, 94-6101, 94-6102, 94-6103, 94-6104, 94-6105, 94-6106, 94-6107, 94-6108, 94-6109, 94-6110, 94-6111, 94-6112, 94-6113, 94-6114, 94-6115, 94-6116, 94-6117, 94-6118, 94-6119, 94-6120, 94-6121, 94-6122, 94-6123, 94-6124, 94-6125, 94-6201, 94-6202, 94-6203, 94-6204, 94-6205, 94-6206, 94-6207, 94-6208, 94-6301, 94-6302, 94-6303, 94-6304, 94-6305, 94-6306, 94-6307, 94-6308, 94-6309, 94-6310, 94-6311, 94-6312, 94-6313, 94-6314, 94-6315, 94-6316, 94-6317, 94-6318, 94-6319, 94-6320, 94-6321, 94-6322, 94-6323, 94-6324, 94-6325, 94-6326, 94-6327, 94-6328, 94-6329, 94-6330, 94-6331, 94-6332, 94-6333, 94-6334, 94-6335, 94-6401, 94-6402, 94-6403, 94-6404, 94-6405, 94-6406, 94-6407, 94-6407.1, 94-6408, 94-6409, 94-6410, 94-6411, 94-6412, 94-6413, 94-6422, 94-6426, 94-6427, 94-6428, 94-6430, 94-6431, 94-6432, 94-6433, 94-6434, 94-6501, 94-6502, 94-6503, 94-6504, 94-6505, 94-6506, 94-6507, 94-6508, 94-6509, 94-6510, 94-6511, 94-6512, 94-6513, 94-6514, 94-6515, 94-6516, 94-6601, 94-6602, 94-6603, 94-6604, 94-6605, 94-6701, 94-6702, 94-6703, 94-6704, 94-6705, 94-6706, 94-6707, 94-6708, 94-6709, 94-6710, 94-6711, 94-6801, 94-6802, 94-6803, 94-6804, 94-6805, 94-6809, 94-6901, 94-6902, 94-6903, 94-6904, 94-6905, 94-6906, 94-6907, 94-6908, 94-6909, 94-6910, 94-6911, 94-6912, 94-6913, 94-7001, 94-7002, 94-7003, 94-7004, 94-7005, 94-7006, 94-7007, 94-7008, 94-7009, 94-7010, 94-7011, 94-7012, 94-7013, 94-7101, 94-7102, 94-7103, 94-7104, 94-7105, 94-7106, 94-7107, 94-7108, 94-7109, 94-7110, 94-7111, 94-7112, 94-7113, 94-7114, 94-7115, 94-7116, 94-7117, 94-7118, 94-7119, 94-7120, 94-7121, 94-7122, 94-7123, 94-7124, 94-7125, 94-7126, 94-7127, 94-7128, 94-7201, 94-7202, 94-7205, 94-7221, 94-7222, 94-7223, 94-7224, 94-7225, 94-7226, 94-7227, 94-7228, 94-7229, 94-7230, 94-7231, 94-7232, 94-7233, 94-7235, 94-7236, 94-7237, 94-7238, 94-7239, 94-7301, 94-7302, 94-7303, 94-7304, 94-7305, 94-7306, 94-7308, 94-7401, 94-7402, 94-7403, 94-7404, 94-7405, 94-7406, 94-7407, 94-7408, 94-7409, 94-7410, 94-7411, 94-7412, 94-7413, 94-7414, 94-7415, 94-7416, 94-7417, 94-7418, 94-7419, 94-7420, 94-7501, 94-7502, 94-7503, 94-7504, 94-7505, 94-7506, 94-7507, 94-7508, 94-7601, 94-7602, 94-7603, 94-7604, 94-7605, 94-7701, 94-7702, 94-7703, 94-7704, 94-7801, 94-7802, 94-7803, 94-7804, 94-7805, 94-7806, 94-7807, 94-7808, 94-7809, 94-7810, 94-7811, 94-7812, 94-7813, 94-7814, 94-7815, 94-7816, 94-7817, 94-7818, 94-7819, 94-7820, 94-7821, 94-7822, 94-7823, 94-7824, 94-7825, 94-7826, 94-7827, 94-7828, 94-7829, 94-7830, 94-7831, 94-7832, 94-7833, 94-7834, 94-7835, 94-7836,

HeinOnline -- 1967 vol. I 464 1967

94-7837, 94-7838, 94-7839, 94-7840, 94-7841, 94-8001, 94-8002, 94-8003, 94-8004, 94-8005, 94-8006, 94-8007, 94-8008, 94-8009, 94-8010, 94-8011, 94-8012, 94-8013, 94-8014, 94-8015, 94-8016, 94-8017, 94-8018, 94-8019, 94-8020, 94-8021, 94-8022, 94-8023, 94-8101, 94-8102, 94-8103, 94-8104, 94-8105, 94-8106, 94-8107, 94-8108, 94-8109, 94-8110, 94-8111, 94-8112, 94-8113, 94-8114, 94-8201, 94-8202, 94-8203, 94-8204, 94-8205, 94-8206, 94-8207, 94-8208, 94-8209, 94-8210, 94-8211, 94-8212, 94-8213, 94-8214, 94-8215, 94-8301, 94-8302, 94-8303, 94-8304, 94-8305, 94-8306, 94-8307, 94-8401, 94-8402, 94-8403, 94-8404, 94-8405, 94-8501, 94-8502, 94-8503, 94-8504, 94-8505, 94-8506, 94-8507, 94-8601, 94-8602, 94-8603, 94-8604, 94-8605, 94-8701, 94-8702, 94-8703, 94-8704, 94-8705, 94-8706, 94-8707, 94-8708, 94-8709, 94-8710, 94-8711, 94-8712, 94-8713, 94-8714, 94-8715, 94-8716, 94-8717, 94-8718, 94-8901, 94-8902, 94-8903, 94-8904, 94-8905, 94-8906, 94-8907, 94-8908, 94-8909, 94-9101, 94-9102, 94-9103, 94-9104, 94-9105, 94-9106, 94-9107, 94-9108, 94-9109, 94-9110, 94-9111, 94-9112, 94-9301, 94-9302, 94-9303, 94-9304, 94-9305, 94-9306, 94-9401, 94-9402, 94-9403, 94-9501, 94-9502, 94-9503, 94-9504, 94-9505, 94-9506, 94-9507, 94-9601, 94-9602, 94-9603, 96-9604, 94-9605, 94-9606, 94-9607, 94-9608, 94-9609, 94-9610, 94-9701, 94-9702, 94-9703, 94-9704, 94-9705, 94-9706, 94-9707, 94-100-1, 94-100-2, 94-100-3, 94-100-4, 94-100-5, 94-100-6, 94-100-7, 94-100-8, 94-100-9, 94-100-10, 94-100-11, 94-100-12, 94-100-13, 94-100-14, 94-100-15, 94-100-16, 94-100-17, 94-100-18, 94-100-19, 94-100-20, 94-100-21, 94-100-22, 94-100-23, 94-100-24, 94-100-25, 94-100-26, 94-100-27, 94-100-28, 94-100-29, 94-100-30, 94-100-31, 94-100-32, 94-100-33, 94-100-34, 94-100-35, 94-100-36, 94-100-37, 94-100-38, 94-100-39, 94-100-40, 94-100-41, 94-100-42, 94-100-43, 94-100-44, 94-100-45, 94-100-46, 94-101-1, 94-101-2, 94-01-3, 94-101-4, 94-101-5, 94-101-6, 94-101-7, 94-101-8, 94-101-9, 94-101-10, 94-101-11, 94-101-12, 94-101-13, 94-101-14, 94-101-15, 94-101-16, 94-101-17, 94-101-18, 94-101-19, 94-101-20, 94-101-21, 94-101-22, 94-101-23, 94-101-24, 94-101-25, 94-101-26, 94-101-27, 94-101-28, 94-101-29, 94-101-30, 94-101-31, 94-101-32, 94-101-33, 94-201-1, 94-201-2, 94-201-3, 94-201-4, 94-201-5, 94-201-6, 94-201-7, 94-201-8, 94-201-9, 94-201-10, 94-201-11, 94-201-12, 94-201-13, 94-301-1, 94-301-2, 94-301-3, 94-301-4, 94-301-5, 94-301-6, 94-301-7, 94-301-8, 94-301-9, 94-301-10, 94-301-11, 94-301-12, 94-301-13, 94-301-14, 94-301-15, 94-301-16, 94-301-17, 94-301-18, 94-301-19, 94-301-20, 94-301-21, 94-601-1, 94-601-2, 94-601-3, R.C.M.

HeinOnline -- 1967 vol. I 465 1967

1947 and all acts and parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 3. The Montana Code of Criminal Procedure is effective January 1, 1968, and its provisions apply to all proceedings in prosecutions for crimes alleged to have been committed on or after that date.

Severability clause.

Section 4. It is the intent of the legislative assembly that if a part of this act is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this act is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Approved: February 28, 1967.

CHAPTER 197

An act for the codification and general revision of the laws relating to the state board of health; amending Sections 27-112 and 27-202, R.C.M. 1947, and repealing Sections 69-101 through 69-103, 69-105, 69-105.1, 69-105.2, 69-105.3, 69-105.4, 69-107, 69-109 through 69-127, 69-201 through 69-208, 69-301, 69-303 through 69-319, 69-401 through 69-404, 69-501 through 69-536, 69-536.1, 69-536.2, 69-537 through 69-539, 69-601 through 69-609, 69-701 through 69-712, 69-801 through 69-817, 69-901, 69-902, 69-1001 through 69-1025, 69-1122 through 69-1138, 69-1201 through 69-1220, 69-1301 through 69-1320, 69-1326 through 69-1346, 69-2001 through 69-2004, 69-2201, 69-2202, 69-2301 through 69-2310, 69-2407 through 69-2421, 69-2501 through 69-2504, 69-2601 through 69-2603, 69-2901 through 69-2918, 69-3001 through 69-3004, 69-3007 through 69-3016, 69-3016.1, 69-3017, 69-3018, 69-3101 through 69-3112, 69-3201 through 69-3210, 69-3801 through 69-3813, R.C.M. 1947.

Intent of legislative assembly.

It is the intent of the legislative assembly that all nonamendatory sections of this bill be codified in Title 69, Revised Codes of Montana, 1947, with the subject matter under each heading assigned to a separate chapter of that title.

HeinOnline -- 1967 vol. I 466 1967

Be it enacted by the Legislative Assembly of the State of Montana:

State Board of Health

State board of health.

Section 1. There is a state department of health within the executive branch of state government.

Section 2. As used in this act, unless the context clearly indicates otherwise;

(1) "State board" means the state board of health; "State Board."

(2) "Department" means the state department of health; "Department."

(3) "Executive officer" means the director of the state department of health; "Executive officer."

(4) "Communicable disease" means a disease designated communicable by the state board. "Communicable disease."

Section 3. (1) The state board consists of seven (7) members appointed by the governor for terms of seven (7) years with the consent of the senate. An appointment to replace a member whose term has expired shall be for seven (7) years. An appointment to replace a member whose term has not expired shall be for the remainder of the term. Board members —terms.

(2) Membership of the state board shall include: Members to include.

(a) three (3) persons who have the degree of doctor of medicine;

(b) one (1) person who has the degree of doctor of dental surgery;

(c) three (3) persons who have demonstrated intelligent and active interest in the field of public health who do not hold the degree of doctor of medicine or doctor of dental surgery.

(3) Terms of members holding office when this act becomes effective shall not be affected.

Section 4. (1) The state board shall elect a chairman and other necessary officers and may adopt by-laws governing meetings. The executive officer shall serve as secretary to the state board. Four (4) members constitute a quorum for the transaction of business. Officers.

(2) The state board shall meet once every two (2) months and may hold additional meetings on the call of Meetings.

HeinOnline -- 1967 vol. I 467 1967

the chair, at the request of the executive officer, or at the request of a majority of the members. If a member has three (3) unexcused absences from meetings in any calendar year, his position is vacant and the governor shall appoint a person to replace him.

Compensation.

(3) State board members shall receive twenty dollars ($20) a day and be reimbursed for actual and necessary expenses when attending meetings or in the discharge of other duties assigned by the state board.

(4) In suits or proceedings in which state board actions are the subject of inquiry, meetings shall be deemed to have been called and held unless the contrary is proven.

Responsibility of board.

Section 5. With policy guidance of the state board the department has responsibility for administration of laws relating to public health including but not limited to, laws on:

(1) industrial hygiene;

(2) tuberculosis control;

(3) vital statistics;

(4) local boards of health;

(5) venereal disease control;

(6) shoddy control;

(7) public and other water supplies;

(8) cadavers;

(9) hospitals, hospital related facilities, and long-term care facilities;

(10) hospital survey and construction;

(11) cesspools, septic tanks, privies, sewage lagoons, sewage treatment plants and stream pollution;

(12) public swimming pools and public bathing places;

(13) pure foods and drugs;

(14) insecticides, fungicides, and rodenticides;

(15) refuse disposal areas;

HeinOnline -- 1967 vol. I 468 1967

(16) communicable diseases;

(17) tourist camp grounds;

(18) hotels.

Section 6. (1) The state board shall: Powers of board.

(a) advise the executive officer in all public health matters;

(b) hold hearings, administer oaths, subpoena witnesses, and take testimony in all matters relating to the duties of the state board or the department;

(c) bring actions in court for enforcement of health laws and defend actions brought against the state board or department;

(d) after consultation with the executive officer, adopt and enforce rules and standards for carrying out provisions of section 5 of this act and for the preservation of public health and prevention of disease;

(e) make rules covering the qualifications and professional activities, duties, services, and administration of school and local public health nurses;

(f) make rules for the transportation of dead bodies;

(g) submit a written report of activities of the state board and department and recommendations for improvement of public health to the governor and legislative assembly prior to January 10 of each odd numbered year.

(2) The state board may accept and expend federal funds available for public health services.

Section 7. (1) The state board shall appoint the executive officer who is the chief executive and administrative officer of the department. The state board shall fix his salary. Executive officer —salary.

(2) The executive officer shall: Duties.

(a) have a degree of doctor of medicine;

(b) have successfully completed at least one (1) year of graduate study in an approved school of public health;

(c) have had at least two (2) years experience as a full-time public health officer;

HeinOnline -- 1967 vol. I 469 1967

(d) be eligible for a license by the board of medical examiners;

(e) receive a license from the board of medical examiners not later than six (6) months after his appointment.

Temporary executive officer.

(3) The state board may appoint a temporary executive officer for a period of not more than one (1) year. A person appointed temporary executive officer must be licensed to practice medicine in Montana, and must have at least five (5) years active experience in that profession.

(4) The state board may contract with a person to serve as executive officer, or may appoint an executive officer for a term of not more than ten (10) years.

Removal of executive officer.

Section 8. The executive officer may be removed in the following way:

(1) the state board shall present him with a written statement of the charges against him;

(2) twenty (20) or more days after written notice is given to the executive officer, the state board shall hold a hearing to consider the charges;

(3) before the executive officer may be removed, a majority of state board members must agree that the charges were sustained by evidence presented at the hearing.

Responsibilities and duties of executive officer.

Section 9. (1) The executive officer shall:

(a) execute policies established by the board;

(b) not engage in the private practice of medicine;

(c) with approval of the state board, appoint employees of the department and fix their compensation under a merit system of personnel administration;

(d) direct public health programs and internal affairs of the department.

(2) The executive officer may employ persons on a temporary or part-time basis, or in a consulting capacity, who are not under a merit system of personnel administration.

HeinOnline -- 1967 vol. I 470 1967

Department of health—duties.

Section 10. With policy guidance of the state board, the department shall:

(1) establish divisions, sections, or units which are necessary to carry out the responsibilities of the department;

(2) study conditions affecting the citizens of the state by making use of birth, death, and sickness records;

(3) make investigations, disseminate information, and make recommendations for control of diseases and improvement of public health to persons, groups, or the public;

(4) at the request of the governor administer any federal health program for which responsibilities are delegated to states;

(5) inspect and work in conjunction with custodial institutions and Montana university system units periodically as necessary, and at other times on request of the governor;

(6) after each inspection made under subsection (5) of this section, submit a written report on sanitary conditions to the governor and to the director of institutions or executive secretary of the Montana university system and include recommendations for improvement in conditions, if necessary;

(7) advise state agencies on location, drainage, water supply, disposal of excreta, heating, plumbing, sewer systems, and ventilation of public buildings;

(8) organize laboratory services and provide equipment and personnel for those services;

(9) develop and administer activities for the protection and improvement of dental health and supervise dentists employed by the state, local boards of health, or schools;

(10) develop and administer a program to protect the health of mothers and children;

(11) conduct health education programs;

(12) supervise school and local public health nurses in the performance of their duties;

HeinOnline -- 1967 vol. I 471 1967

(13) consult with the superintendent of public instruction on health measures for schools;

(14) develop and administer a program for services to handicapped children including diagnosis, medical, surgical and corrective treatment, and after-care and related services;

(15) supervise local boards of health.

Legal adviser.

Section 11. The attorney general is legal adviser to the state board and department. If the county attorney fails to act, with the approval of the attorney general the state board may retain special counsel and compensate him from general appropriations to the state board. Either the county attorney of any county where a cause of action arises or the state board may bring any action necessary to abate, restrain, or prosecute the violation of public health laws.

Quarantine measures.

Section 12. With approval of the state board, the department may adopt and enforce quarantine measures against any state, county, or municipality to prevent the spread of communicable disease. Any person who does not comply with quarantine measures shall, upon conviction, be fined not less than ten dollars ($10) nor more than one hundred dollars ($100). Receipts from fines shall be deposited in the state general fund.

Executive officer to act—when.

Section 13. If a communicable disease endangers public health and the state board must meet to make a decision concerning the danger, the executive officer shall act for the state board until a meeting has been held.

Public health information.

Section 14. On request, employees and officers of firms and corporations and public officials shall furnish public health information to the department.

Infant morbidity and mortality —information.

Section 15. (1) If information on infant morbidity and mortality will be used to reduce those problems, data relating to the condition and treatment of any person may be given to the department, Montana medical association, an allied society of the Montana medical association, a committee of a nationally organized medical society or research group, or to an in-hospital staff committee.

(2) A person furnishing information under subsection (1) of this section is immune from suit for damages

HeinOnline -- 1967 vol. I 472 1967

arising from the release of the data or publication of findings and conclusions based on the data.

(3) Data supplied under subsection (1) of this section may be used or published only for advancing medical research or medical education in the interest of reducing infant morbidity or mortality. However, a summary of studies based on the data may be released for general publication.

(4) The identity of persons whose condition or treatment was studied is confidential and may not be revealed under any circumstances.

(5) Any data supplied or studies based on these data are privileged communications and may not be used as evidence in any legal proceeding. Any attempt to use, or offer to supply the data or studies, without consent of the person treated or his legal representative, is prejudicial error resulting in a mistrial.

Testing of infants.

Section 16. Persons in charge of any facility caring for newborn infants and persons responsible for the registration of births shall insure that each infant has a test for phenylketonuria administered under rules adopted by the state board.

Rules for schools.

Section 17. The state board shall adopt rules for lighting, heating, ventilation, plumbing and sanitary arrangements for schoolhouses. Before any schoolhouse is constructed, plans must be submitted to the department for approval. A schoolhouse must conform to the rules adopted by the state board before being used.

Sanitary inspections.

Section 18. (1) The department shall make sanitary inspections of schoolhouses, churches, theaters, and other buildings or facilities where persons assemble. If the facility is found unsanitary, the department shall direct that conditions be corrected within a reasonable time. If the unsanitary conditions are not corrected within the time specified, the building or facility is a public nuisance.

(2) Either the state board or a local board of health shall bring an action to correct the unsanitary conditions in the way provided by law for abating a public nuisance.

HeinOnline -- 1967 vol. I 473 1967

Industrial hygiene.

Industrial Hygiene

"Occupational disease."

Section 19. As used in this chapter "occupational disease" means an illness that:

(1) arises from the person's employment;

(2) is caused by exposure to a substance or industrial practice which is hazardous to health;

(3) has symptoms of an industrial disease which is known to have resulted from the same type of exposure in other cases;

(4) is not the result of a person's contacts or activities outside his employment.

Rules to prevent hazardous health conditions.

Section 20. The state board of health shall adopt rules and approve orders to correct or prevent conditions which are hazardous to health at any place of employment.

Duties of state department of health.

Section 21. The state department of health shall:

(1) make studies, make recommendations, and issue orders approved by the state board on industrial hygiene and occupational diseases;

(2) keep complete records of its studies, recommendations, or orders;

(3) investigate the conditions of work at any place of employment at any time;

(4) report the findings of investigations to the industry concerned and cooperate with the industry in preventing or correcting conditions which are hazardous to health;

(5) enforce provisions of this chapter, and rules adopted by the state board;

(6) prepare forms and instructions for reporting occupational diseases and furnish them to physicians, hospitals, clinics, industrial plants, and labor unions on request;

(7) investigate reports of deaths from occupational disease to determine the correctness of the report and the cause of the disease;

HeinOnline -- 1967 vol. I 474 1967

(8) at least once each year compile statistical summaries on occupational diseases reported to the department.

Reports of occupational diseases.

Section 22. (1) Before the eleventh day after discovery, every physician, person in charge of a hospital or clinic, or state employee shall report an occupational disease to the department. The report shall be on forms prescribed by the department and include:

(a) name and address of the diseased person;

(b) name and business address of the employer;

(c) business of the employer;

(d) place of the person's employment;

(e) length of time the person was employed at the place where he became ill;

(f) nature of the disease;

(g) other information required by the department.

(2) Reports made under this section are neither public records nor open to public inspection. They are not admissible as evidence in any legal action or at a hearing under workmen's compensation laws of this state.

Violation —penalty.

Section 23. (1) A person is guilty of a misdemeanor if he:

(a) does not make a report required by this chapter;

(b) does not comply with a rule adopted by the state board;

(c) does not comply with an order approved by the state board;

(d) wilfully makes a false statement in a report.

(2) On conviction, he shall be fined not more than five hundred dollars ($500).

Tuberculosis Control

Tuberculosis control.

Public policy.

Section 24. It is the public policy of the state to:

(1) protect persons from the danger of tuberculosis in a communicable state;

HeinOnline -- 1967 vol. I 475 1967

(2) provide and maintain a comprehensive program for the prevention, abatement, and adequate control working toward eradication of the disease;

(3) cooperate with other state agencies and the federal government in carrying out these objectives.

Section 25. As used in this chapter, unless the context clearly indicates otherwise:

(1) "Local board" means a city, county, city-county or district board of health.

(2) "Tuberculosis" means a disease caused by the tubercle bacillus characterized by the production of tuberculous lesions.

Rules for determination.

Section 26. The state board of health shall adopt rules for the determination of tuberculosis in a communicable state.

Duties of state department of health.

Section 27. (1) Under policy guidance of the state board, the state department of health shall;

(a) accept, spend, and distribute federal funds available for tuberculosis control;

(b) collect and study data on the incidence of tuberculosis.

(2) Under policy guidance of the state board, the department may, if appropriate, contract with federal agencies or other state agencies for receipt and expenditure of federal funds.

When person suspected to have tuberculosis.

Section 28. (1) If a person is reasonably suspected to have, or to have been exposed to, communicable tuberculosis, upon request of:

(a) a physician legally authorized to practice medicine in the state; or

(b) the department; or

(c) a local health officer; the department or a local board may apply for an order from the district court.

(2) The application shall request that the person be ordered to:

(a) submit to an examination for tuberculosis; or

(b) enter, or return to, a hospital for treatment if the person is a menace to public health.

HeinOnline -- 1967 vol. I 476 1967

Application —form.

Section 29. (1) The application for an order provided for in section 28 of this act shall allege that the person:

(a) is suspected of having tuberculosis in a communicable state or has been exposed to communicable tuberculosis; is a menace to public health and has refused to be examined for tuberculosis as required by rules adopted by the state board; or

(b) is suffering from tuberculosis in a communicable state; is a menace to public health; has refused to enter, or has left, a hospital against the advice of a physician or health officer.

(2) The application shall state the names of witnesses by which facts alleged may be proved. At least one (1) witness shall be a physician.

Procedure for hearing on application.

Section 30. The procedure for a hearing on the application is:

(1) a summons stating the time and place of the hearing and a copy of the application is personally served on the person;

(2) the summons, with endorsement of the time of service, is filed with the district court prior to the hearing;

(3) not fewer than three (3) nor more than seven (7) days after service of the summons, a hearing is held in the district court;

(4) the court examines witnesses in attendance or others it wishes to call.

Section 31. Following the hearing, the court shall find that the allegations of the application are:

(1) true and order the person committed to a hospital; or

(2) true and order the person to submit to an examination for tuberculosis; or

(3) not true and order the person discharged.

Failure to comply.

Section 32. If a person fails to comply with an order to submit to an examination for tuberculosis within the time set, the court shall order him committed to a hospital.

HeinOnline -- 1967 vol. I 477 1967

Order of commitment.

Section 33. The court shall send certified copies of an order of commitment to the hospital and the department or local board of health, and issue a warrant directed to the sheriff to transport the person to the designated hospital.

Hospitalization.

Section 34. A person committeed under section 31 or section 32 of this act shall remain at the hospital until discharged, but he is not required to submit to medical or surgical treatment without written consent. If the person is incompetent, consent by his next of kin or guardian is required. If a person is a minor, consent by his parent or guardian is required. The person in charge of the hospital may use reasonable means to insure that the person committed remains at the hospital.

Release—application.

Section 35. (1) A person committed under section 31 or section 32 of this act may apply for a release. The procedure for the request and a hearing is:

(a) not fewer than one hundred eighty (180) days after commitment, the person applies to the court that ordered commitment requesting release;

(b) not fewer than three (3) nor more than seven (7) days after receipt of the request, the court holds a hearing.

(2) Following the hearing, the court:

(a) orders his discharge if it finds he no longer has tuberculosis in a communicable state; or

(b) dismisses the request if it finds he still has tuberculosis in a communicable state.

Release—when.

Section 36. If the person in charge of the hospital and the department or local board that requested commitment concur that a person is no longer a menace to public health, the person shall be released from the hospital. The person in charge of the hospital shall file a notice of date of release with the court that ordered commitment.

Transfer to another hospital.

Section 37. If it is in his best interest, a person may be transferred from the hospital to which he was committed to another hospital approved by the department. The person in charge of the hospital to which the person was committeed shall notify the court that ordered com-

HeinOnline -- 1967 vol. I 478 1967

mitment, and the department or local board that requested commitment, of the transfer.

Expenses and fees.

Section 38. Court costs, expenses and all fees shall be paid by the treasurer of the county from which a person is committed. Expenses and fees shall be paid as follows:

(1) to sheriffs and their deputies the same fees allowed for similar services in district court;

(2) to physicians, not to exceed two (2), fees as set by the court;

(3) to witnesses the same fees and mileage provided for attendance in district court;

(4) to persons other than the sheriff or his deputies who transport a person to or from a hospital, witness fees and expenses as verified by the court.

Transportation expenses.

Section 39. Expenses of transporting a person to a hospital for commitment shall be paid from the general fund of the county from which the person is committed. The charge for care, treatment, and maintenance at the state pulmonary disease hospital shall be at the rate fixed by law.

Facility.

Section 40. The state pulmonary disease hospital shall maintain facilities to carry out provisions of this chapter.

Vital Statistics

Vital statistics.

Section 41. As used in this chapter, unless the context clearly indicates otherwise:

"Vital statistics."

(1) "Vital statistics" includes the registration, preparation, transcription, collection, compilation and preservation of data pertaining to births, adoptions, legitimations, deaths, fetal deaths, marital status and incidental supporting data.

"Live birth."

(2) "Live birth" means the birth of a child who shows evidence of life after being entirely outside the mother.

"Fetal death."

(3) "Fetal death" means a birth after twenty (20) weeks of gestation which is not a live birth.

"Dead body."

(4) "Dead body" means a lifeless human body or parts of a body from which it reasonably may be concluded that death occurred recently.

HeinOnline -- 1967 vol. I 479 1967

"Person in charge of interment." (5) "Person in charge of interment" means any person who places or causes to be placed, a dead body or the ashes after cremation, in a grave, vault, urn or other receptacle, or otherwise disposes of the body.

"Physician." (6) "Physician" means a person legally authorized to practice medicine in this state.

"State registrar." (7) "State registrar" means the person designated by the executive officer of the department of health to have primary responsibility for vital statistics.

"Local registrar." (8) "Local registrar" means a person appointed by the state registrar to act as his agent in administering this chapter within the area set forth in the letter of appointment.

System and rules. Section 42. The state board of health shall establish a statewide system of vital statistics and adopt rules for gathering, recording, using, and preserving vital statistics.

Duties of state department Section 43. The state department of health shall:

(1) divide the state into registration districts and change districts as necessary;

(2) gather, record, use, and preserve vital statistics;

(3) enforce rules adopted by the state board for gathering, recording, using and preserving vital statistics;

(4) give instructions and prescribe forms for gathering, recording, preserving, and using vital statistics.

Diclosure of data. Section 44. It is unlawful to disclose data in the vital statistics records of the department, local registrars, or county clerk and recorder unless disclosure is authorized by law and approved by the state board. The state registrar shall not permit inspection of the records or issue copies of any certificate unless he is satisfied that the applicant has a direct and tangible interest in the data recorded and that the information is necessary for the determination of personal or property rights. His decision is subject to review by the state board or a court.

State board may direct release. Section 45. The state board may direct the state registrar to disclose information from his records to federal, state, county, or municipal agencies for use only as prescribed by the state board. If no identification of

HeinOnline -- 1967 vol. I 480 1967

individuals is made, the state board may permit the use of data contained in vital statistics records for research purposes.

Certified copies.

Section 46. Subject to the limitations of sections 44, 45, 57, 59, and 62 of this act, the state registrar shall furnish to any applicant a certified copy of a certificate, or part of it, upon request which shall be considered the same as the original.

Fee for certified copy.

Section 47. The state board shall prescribe a fee of not less than two dollars ($2) for a certified copy of certificates, or search of files. The state board may provide transcripts to the federal agency responsible for vital statistics if it is reimbursed for costs.

Section 48. Fees received for a certified copy of a certificate or a search of files shall be deposited in the state general fund.

State registrar —duties.

Section 49. The state registrar shall:

(1) with approval of the state board, appoint local registrars;

(2) supervise local registrars and other persons required to comply with this act.

Deputy registrars.

Section 50. With approval of the state registrar, local registrars may appoint deputies. Local registrars and deputies shall immediately report violations of this act or rules of the state board to the state registrar.

Certificates —form.

Section 51. (1) All certificates shall include information required by the state board.

(2) Local registrars shall forward original certificates to the state registrar, file a duplicate copy with the county clerk and recorder, and retain a triplicate copy.

(3) Local registrars shall not issue certified copies of certificates.

Filing of certificates —evidence.

Section 52. Certificates filed within six (6) months after the time prescribed by the state board shall be prima facie evidence of the facts stated in the certificates. Data pertaining to the father of a child are prima facie evidence only if the alleged father is the husband of the mother. If the alleged father is not the husband of the mother, data pertaining to the alleged father are

HeinOnline -- 1967 vol. I 481 1967

not evidence in any proceedings adverse to his interests, his heirs, next of kin, devisees, legatees, or other successors in interest.

Birth certificates.

Section 53. Within the time prescribed by the state board, a birth certificate shall be filed with the local registrar of the district in which the birth occurred by:

(1) the physician, midwife, or other legally authorized person if the birth is attended;

(2) one of the parents if the birth is unattended.

When parents unable to furnish information.

Section 54. (1) If a birth is unattended and neither parent is able to prepare a birth certificate, the local registrar shall:

(a) secure information from any person having knowledge of the birth;

(b) prepare and file a birth certificate;

(c) within the time prescribed by the state board, file a supplementary report furnishing information omitted from the original birth certificate if additional information is received.

(2) Birth certificates completed by a supplementary report shall not be considered "delayed" or "altered."

Report by person having custody of child of unknown parentage.

Section 55. (1) A person who assumes custody of a child of unknown parentage shall immediately file with the local registrar a written report which shall constitute a birth certificate. The report shall contain:

(a) the date and place of finding or assumption of custody;

(b) sex, color or race, and approximate age of the child;

(c) name and address of the person or institution with whom the child has been placed for care;

(d) name given to the child by the finder or person who assumes custody.

(2) The place where the child was found or custody assumed shall be the place of birth. The date of birth shall be determined by approximation. If the child is identified and a regular birth certificate is found or

HeinOnline -- 1967 vol. I 482 1967

obtained, the report shall be sealed and may be opened only by court order.

Birth certificate.

Section 56. After the time prescribed by the state board, a person born in this state may file a birth certificate upon submitting proof as required by the state board or by any court. A person may amend a birth, death, or fetal death certificate upon submitting proof as required by the state board.

Delayed or altered certificates.

Section 57. If birth certificates are accepted six (6) months or more after the time prescribed for filing or are altered by the state registrar after filing, the certificate shall show the date of the delayed filing or alteration and the mark "delayed" or "altered". A summary statement of the evidence in support of the delayed filing or alteration shall be endorsed on the certificate.

Judicial procedure to establish date and place of birth.

Section 58. If a person born in this state cannot obtain a birth certificate from the state registrar, the judicial procedure to establish date and place of birth is:

(1) the person petitions the district court for an order establishing a public record of his birth alleging the facts which he claims entitles him to the birth certificate;

(2) if the court is satisfied of the truth of the allegations in the petition, it makes an order reciting the facts, determining the time and place of birth, names of parents, and other relevant facts;

(3) the court order or a certified copy is recorded with the county clerk and recorder and with the state registrar;

(4) from the court order, the state registrar makes a transcript of the important facts and issues a delayed birth certificate.

Probative value of delayed certificate.

Section 59. The probative value of a "delayed" or "altered" certificate of birth is determined by the judicial or administrative body before whom the certificate is offered as evidence.

Substitute birth certificate —issuance.

Section 60. The procedure for issuing a substitute birth certificate for a person born in Montana and adopted is:

(1) before the sixteenth day of the month following

HeinOnline -- 1967 vol. I 483 1967

the order of adoption the clerk of the district court shall forward a certified copy of the final order of adoption to the state registrar;

(2) the state registrar shall prepare a substitute certificate containing:

(a) the new name of the adopted person,

(b) the true date and place of birth and sex of the adopted person,

(c) statistical facts concerning the adoptive parents in place of the natural parents,

(d) the words "State Registrar" substituted for the words "Attendant's own signature,"

(e) dates of recording as shown on the original birth certificate.

Substitute birth certificate —recording.

Section 61. (1) The procedure for recording a substitute certificate of birth for a person born in Montana and adopted is:

(a) the state registrar shall send copies of the substitute certificate to the local registrar and to the county clerk and recorder;

(b) the local registrar and county clerk and recorder shall immediately enter the substitute birth certificate in their files and forward copies of the original birth record to the state registrar;

(c) the state registrar shall seal original birth records and open them only upon demand of the adopted person if of legal age, or upon order of a court.

(2) Upon receipt of a certified copy of a court order annulling an adoption, the state registrar shall restore the original certificate to its place in his files and notify the local registrar and county clerk and recorder.

Information on illegitimacy.

Section 62. Disclosure of illegitimacy of birth, or information from which illegitimacy can be ascertained, may be made only upon order of a court to determine personal or property rights. The information can be used only for that purpose.

New birth certificate if person legitimated.

Section 63. Upon receipt of proof of legitimation, the state registrar shall prepare a new birth certificate in

HeinOnline -- 1967 vol. I 484 1967

the new name of the person legitimated. Evidence upon which the new certificate is based and the original birth certificate shall be sealed and may be opened only upon court order. In case of legitimation, the state registrar shall substitute records in the way provided in section 61 of this act for records of adoption.

Death certificates.

Section 64. (1) A death or fetal death certificate shall be filed with the local registrar prior to interment or other disposition of a dead body. If the place of death is known, the certificate shall be filed within three (3) days after the occurrence is known. If the place of death or fetal death is unknown, the certificate shall be filed within twenty-four (24) hours after the occurrence is known.

(2) If a state resident dies outside the county of his residence, the clerk and recorder shall send a certified copy of the death certificate to the clerk and recorder of the deceased's county of residence. The copy shall be considered the same as the original.

Duty of undertaker.

Section 65. A person in charge of interment shall:

(1) obtain personal data required by the state board from persons best qualified to supply the data and enter it on the death or fetal death certificate;

(2) present the death certificate to the physician last in attendance upon the deceased or the coroner having jurisdiction who shall certify the cause of death according to his best knowledge and belief; or

(3) present the fetal death certificate to the physician, midwife, or other person in attendance, who shall certify the fetal death and supply any pertinent additional medical data;

(4) notify the local registrar if the death or fetal death occurred without attendance or if the physician last in attendance failed to sign the death certificate;

(5) file the death or fetal death certificate with the local registrar within three (3) days after the occurrence.

No medical attendance.

Section 66. If the death or fetal death occurred without medical attendance or the physician last in attendance failed to sign the death certificate, the local registrar may complete the certificate on the basis of information received from persons having knowledge of the

HeinOnline -- 1967 vol. I 485 1967

facts. If it appears the death or fetal death resulted from other than natural causes, the local registrar shall notify the coroner for investigation and certification.

Cause of death.

Section 67. If the cause of death or fetal death cannot be determined within three (3) days after the occurrence, the attending physician or coroner shall give the local registrar written notice of the reason for delay so that a permit may be issued for disposition of the body.

Permit for disposal of dead body.

Section 68. No dead body shall be disposed of or removed from a registration district until a permit for disposition or removal has been issued by the local registrar. No permit shall be issued until a death certificate, fetal death certificate, or notice of delay as required in section 67 of this act has been filed with the local registrar.

Body brought into state.

Section 69. If a body is brought into the state for burial or other disposition accompanied by a permit, the local registrar shall endorse the permit and keep a record of it.

Institutions.

Section 70. The person in charge of any institution or facility for the care of persons shall record and report all data required by this chapter relating to inmates or patients of the institution or facility.

Fees.

Section 71. The state board may specify by regulation a fee to be paid each local registrar for each complete birth, death or fetal death certificate forwarded by the local registrar to the state registrar, or a monthly report stating the local registrar did not file certificates. The state registrar shall annually certify to the county treasurer the number of births, fetal deaths, and deaths, or monthly reports received from his county with the names of the local registrars and the amount due each. The treasurer shall pay each local registrar out of the county general fund.

Marriage certificates.

Section 72. Before the sixteenth day of each month, each clerk of a district court shall report marriage certificates filed with him during the preceding calendar month to the state registrar. Reports shall be on forms and contain information prescribed by the state registrar. The applicant for a marriage license shall pay a recording fee of twenty-five cents ($.25) to the officer authorized to issue the marriage license.

HeinOnline -- 1967 vol. I 486 1967

Divorce, adoption and annulment.

Section 73. Before the sixteenth day of each month, the clerk of court shall prepare and forward to the state registrar a certificate for each decree of divorce, adoption, annulment of marriage, or annulment of adoption that became final during the preceding calendar month. Certificates shall be on forms prescribed by the state registrar.

Report of divorce or annulment.

Section 74. (1) At the same time a decree of divorce or annulment of marriage is filed, the clerk of court shall prepare a report to the state registrar on the form prescribed by the state registrar. Parties to the action or their attorneys shall supply the clerk with necessary information.

(2) The report shall include:

(a) name, age, birthplace, residence, race or color, and occupation of each party;

(b) number, date, and place of any previous marriage of either party;

(c) number of children under eighteen (18) years of age in custody of either party and residing with him;

(d) grounds for the action;

(e) the number of the cause of action;

(f) the county and judicial district where the action is filed;

(g) the date of judgment and the party which was granted it.

Person having knowledge to furnish information.

Section 75. Any person having knowledge of the fact shall furnish information he possesses about a birth, death, fetal death, marriage or divorce upon demand of the state registrar.

Violations and penalties.

Section 76. A person shall be fined not more than one thousand dollars ($1,000), imprisoned not more than one (1) year, or both, if:

(1) he wilfully and knowingly makes any false statement in a report, record, or certificate required to be filed by law, or in an application for an amendment thereof, or wilfully and knowingly supplies false information intending that such information be used in the prepa-

HeinOnline -- 1967 vol. I 487 1967

ration of any such report, record, or certificate, or amendment;

(2) without lawful authority and with the intent to deceive, he makes, alters, amends, or mutilates any report, record, or certificate required to be filed under law or a certified copy of the report, record, or certificate;

(3) he wilfully and knowingly uses or attempts to use, or furnish to another for use, for any purpose of deception, any certificate, record, report, or certified copy made, altered, amended, or mutilated;

(4) with the intention to deceive, he wilfully uses or attempts to use any birth certificate or certified copy of a birth record knowing that such certificate or certified copy was issued upon a record which is false in whole or in part or which relates to the birth of another person;

(5) he wilfully and knowingly furnishes a birth certificate or certified copy of a birth record with the intention that it be used by a person other than the person to whom the birth record relates.

Section 77. A person shall be fined not less than twenty-five dollars ($25) nor more than one hundred dollars ($100), imprisoned for not more than thirty (30) days, or both, if:

(1) he knowingly transports or accepts for transportation, interment, or other disposition a dead body without an accompanying permit as provided by law;

(2) he refuses to provide information required by law;

(3) he wilfully neglects or violates any of the provisions of law or refuses to perform any of the duties imposed upon him by law.

Local boards of health.

Local Boards of Health

Section 78. As used in this chapter, unless the context clearly indicates otherwise:

"Local board."

(1) "Local board" means a county, city, city-county, or district board of health.

HeinOnline -- 1967 vol. I 488 1967

(2) "Local health officer" means a county, city, city-county, or district health officer appointed by the local board. "Local health officer."

(3) "Physician" means a physician legally authorized to practice medicine in this state. "Physician."

Section 79. With approval of the state board of health, the state department of health has general supervision over local boards.

Section 80. With approval of the state board, the executive officer of the state department of health may accept funds for public health from an agency of the federal government, or from any other agency or person, and allocate funds to local boards.

Section 81. There is a county board of health in each county consisting of: City-county boards.

(1) the county commissioners; or

(2) three (3) persons who are appointed by the county commissioners and serve at their pleasure.

Section 82. There is a city board of health in each first and second class city consisting of three (3) persons who are appointed by the governing body of the city and serve at their pleasure.

Section 83. By mutual agreement between the county commissioners and the governing body of the city, the county and a first or second class city, or cities, may form a city-county board of health. A city-county board of health consists of:

(1) one (1) person appointed by the county commissioners who serves at their pleasure;

(2) one (1) person appointed by the governing body of each city that participates in the city-county board who serves at the pleasure of the appointing governing body;

(3) additional members appointed by the county commissioners and governing body, or bodies, of the city or cities participating in the city-county board as mutually agreed upon, who serve at the pleasure of the appointing commissioners or governing body.

Section 84. By mutual agreement, two (2) or more adjacent counties may unite to create a district board of District boards.

HeinOnline -- 1967 vol. I 489 1967

health. First and second class cities located in those counties may elect to be included in the district. A district board of health consists of:

(1) one (1) person appointed by the county commissioners of each county in the district who serves at the pleasure of the appointing commissioners;

(2) one (1) person appointed by the governing body of each city that elects to be included in the district, who serves at the pleasure of the appointing governing body;

(3) additional members appointed by the county commissioners of each county that participates in the district board as mutually agreed upon, who serve at the pleasure of the appointing commissioners.

Financing of local boards.

Section 85. (1) Local boards are financed by general fund appropriations, state and federal funds available, and contributions from school boards and other official and nonofficial agencies.

Appropriations.

(2) Appropriations are made as follows:

(a) County boards are financed by an appropriation from the general fund of the county after approval of a budget in the way provided for other county offices and departments under Chapter 19, Title 16, R.C.M. 1947.

(b) City boards are financed by an appropriation from the general fund of the city after approval of a budget in the way provided for other city offices and departments under Chapter 14, Title 11, R.C.M. 1947.

(c) If a city-county board is created, the county commissioners and governing body of the city, or cities, shall mutually agree upon the division of expenses. The county part of total expenses is financed by an appropriation from the general fund of the county after approval of a budget in the way provided for other county offices and departments under Chapter 19, Title 16, R.C.M. 1947. The city, or cities, part of total costs is financed by an appropriation from the general fund of the city, or cities, participating in the city-county board after approval of a budget in the way provided for other city offices and departments under Chapter 14, Title 11, R.C.M. 1947. All moneys shall be deposited with the county treasurer who shall disburse them as county funds.

HeinOnline -- 1967 vol. I 490 1967

(d) District boards are financed by approprations from the general funds of the counties in the district in proportion to the population in each county. First and second class cities which elect to be included in the district contribute to the county in which they are located in the way provided for city-county boards under subsection (2) (c) of this section. All funds shall be deposited with the county treasurer of one (1) of the counties as agreed upon by the commissioners of the counties in the district. The county treasurer shall disburse the funds as county funds.

(3) School boards and other official and nonofficial agencies may contribute funds to a local board.

(4) If the general fund of a city or county is not sufficient to meet the approved budget, a levy of not more than one (1) mill may be made on the taxable valuation of all property in the city or county in addition to all other levies authorized by law.

Duties of local boards.

Section 86. (1) Local boards shall:

(a) appoint a local health officer who is a physician and fix his salary;

(b) elect a chairman and other necessary officers;

(c) employ necessary qualified staff;

(d) adopt by-laws to govern meetings;

(e) hold regular meetings quarterly and hold special meetings as necessary;

(f) supervise destruction and removal of all sources of filth which cause disease;

(g) guard against the introduction of communicable disease;

(h) supervise inspections of public establishments for sanitary conditions.

(2) Local boards may:

(a) quarantine persons who have communicable diseases;

(b) require isolation of persons or things which are infected with communicable diseases;

HeinOnline -- 1967 vol. I 491 1967

(c) furnish treatment for persons who have communicable diseases;

(d) prohibit the use of places which are infected with communicable diseases;

(e) require and provide means for disinfecting places which are infected with communicable diseases;

(f) accept and spend funds received from a federal agency, the state, a school district, or other persons;

(g) contract with another local board for all, or a part of, local health services;

(h) reimburse local health officers for necessary expenses incurred in official duties;

(i) abate nuisances affecting public health;

(j) adopt rules, which do not conflict with rules adopted by the state board:

(i) for the control of communicable diseases,

(ii) for the removal of filth which might cause disease or adversely affect public health,

(iii) on sanitation in public buildings which affects public health,

(iv) for heating, ventilation, water supply and waste disposal in public accommodations which might endanger human lives.

Duties of local health officers.

Section 87. (1) Local health officers, or their authized representatives, shall:

(a) make inspections for sanitary conditions;

(b) as directed by the local board, issue written orders for the destruction and removal of all filth which might cause disease;

(c) with written approval of the executive officer, order buildings or facilities where people congregate closed during epidemics;

(d) on forms provided by the department, report communicable diseases to the executive officer each week;

HeinOnline -- 1967 vol. I 492 1967

(e) before the first day of January, April, July and October, give a report to the local board of sanitary conditions in the county, city, city-county, or district together with a detailed account of his activities on forms, and containing information, required by the department;

(f) before the tenth day after the report is given to the local board, send a copy of the report required by subsection (1) (e) of this section to the department;

(g) as prescibed by rules adopted by the state board, establish and maintain quarantines;

(h) as prescribed by rules adopted by the state board, supervise the disinfection of places at the expense of the local board when a period of quarantine ends;

(i) notify the state health department of his appointment and any changes in membership of the local board;

(j) file a complaint with the appropriate court if provisions of this chapter or rules adopted by the local or state board under the provisions of this chapter are violated.

(2) With approval of the executive officer, local health officers may forbid persons to assemble in any place if the assembly endangers public health.

(3) Local health officers may be placed in charge of communicable disease hospitals, but local health officers are not required to act as physician to the indigent.

Appointment of local health officers.

Section 88. If the county commissioners, or governing body of a first or second class city, do not appoint a health officer, the state board may appoint a health officer thirty (30) days after notification in writing has been given to the county commissioners or governing body of the city. A health officer appointed by the state board has the same authority as a health officer appointed by a local board.

Local nurse.

Section 89. (1) A local board may employ a qualified nurse for nursing services to persons under a physician's care who are confined to their homes. Before nursing services are provided, a physician must:

(a) determine that the person needs the services of a visiting nurse;

HeinOnline -- 1967 vol. I 493 1967

(b) direct the nurse to visit the person;

(c) specify the type and duration of services to be performed by the nurse.

(2) Persons shall pay for the services at rates set by the local board. Local boards, on behalf of persons receiving services, may accept payment from persons or public agencies either directly from, or by contract with, the person or agency. All payments received shall be deposited in a special county or city fund and used to defray expenses of providing the service.

Assistance of local health officers.

Section 90. A state or local health officer may request a sheriff, constable, or other public officer to assist him in carrying out the provisions of this chapter. If the officer does not render the service, he is guilty of a misdemeanor and may be removed from office.

Physician's reports.

Section 91. If a physician or other practitioner of the healing arts examines or treats a person whom he believes has a communicable disease, or a disease declared reportable by the department, he shall immediately report the case to the local health officer. The report shall be in the form, and contain information, prescribed by the department.

Smallpox.

Section 92. If there is a reasonable belief that smallpox exists or may exist, the department may require all persons frequenting any schoolhouse within the infected or threatened district to be vaccinated, or to present evidence of successful vaccination with cowpox. Unless a person presents evidence of vaccination, it is unlawful for him to enter any schoolhouse in the district.

Diseased prisoners.

Section 93. (1) On written order of a local health officer, a diseased prisoner who is held in a jail and who is considered dangerous to the health of other prisoners, may be removed to a hospital or other place of safety. When the prisoner recovers from the disease, he shall be returned to the jail. If the prisoner was committed to jail by order of court, the order for removal and treatment shall be signed by the local health officer and filed with the court.

(2) A prisoner removed to a hospital or clinic for treatment shall not be considered to have committted an escape.

HeinOnline -- 1967 vol. I 494 1967

Violations.

Section 94. It is unlawful to:

(1) hinder a local health officer in the performance of his duties under this chapter; or

(2) remove or deface any placard or notice posted by the local health officer; or

(3) violate a quarantine regulation.

Section 95. It is unlawful to:

(1) place all or any part of a dead animal in any lake, river, creek, pond, reservoir, road, street, alley, lot, or field; or

(2) place all or any part of a dead animal within one mile of the residence of any person unless the dead animal or part of a dead animal is burned or buried at least two (2) feet under ground; or

(3) being the owner, permit all or any part of a dead animal to remain in the places specified in subsections (1) and (2) of this section except as provided in subsection (2) of this section;

(4) every twenty-four (24) hours that a dead animal or part of a dead animal remains in the places specified in subsections (1) and (2) of this section except as provided in subsection (2) of this act is a separate violation.

Orders of boards.

Section 96. (1) If a person refuses or neglects to comply with a written order of a state or local health officer within a reasonable time specified in the order, the state or local health officer may cause the order to be complied with and initiate an action to recover any expenses incurred from the person who refused or neglected to comply with the order. The action to recover expenses shall be brought in the name of the city or county.

(2) A person who does not comply with rules adopted by a local board is guilty of a misdemeanor. On conviction, he shall be fined not less than ten dollars ($10) nor more than fifty dollars ($50).

(3) Except as provided in subsections (1) and (2) of this section, a person who violates the provisions of this chapter, or rules adopted by the state board under the provisions of this chapter, is guilty of a misdemeanor. On

HeinOnline -- 1967 vol. I 495 1967

conviction, he shall be fined not less than ten dollars ($10) nor more than five hundred dollars ($500), imprisoned for not more than ninety (90) days, or both.

Venereal disease.

Venereal Disease

Section 97. Syphilis, gonorrhea, chancroid, lymphogranuloma, venereum, and granuloma inguinale are venereal diseases. Venereal diseases are contagious, infectious, communicable, and dangerous to public health. A person infected with a venereal disease shall not knowingly expose another person to infection.

Responsibility of state board of health.

Section 98. Under policy guidance of the state board of health, the state department of health shall undertake to prevent, control and prescribe treatments for venereal diseases and may conduct education campaigns for this purpose. The department shall cooperate with federal agencies and may expend federal funds made available to the state for the prevention, control and treatment of venereal diseases.

Section 99. With approval of the state board, the executive officer of the state department of health is authorized to accept federal funds available for the prevention, control and treatment of venereal diseases, deposit funds in the state treasury, and disburse the funds.

Physician's report.

Section 100. A physician who diagnoses or treats a venereal disease shall make a record and report the case to the department in the way and on forms provided by the department.

Duties of officers.

Section 101. (1) If found necessary or desirable to protect public health, state and local health officers or their authorized deputies or agents shall:

(a) examine, or have examined, persons reasonably suspected of being infected with venereal disease;

(b) require persons infected to report for treatment to a reputable physician and continue treatment, which may be at public expense, until cured;

(c) isolate or quarantine persons who refuse examination or treatment;

(d) investigate sources of infection of venereal disease.

HeinOnline -- 1967 vol. I 496 1967

(2) No one but the state or local health officer may terminate the isolation or quarantine. Examinations may be made repeatedly as deemed advisable or desirable.

Confined persons.

Section 102. Any person confined or imprisoned in any state, county, or municipal prison within the state may be examined for venereal disease. If infected, the person shall be treated by health authorities.

Conduct of infectious person.

Sction 103. If a physician or other person knows or has reason to suspect that a person who has venereal disease is conducting himself in a way which might expose another to infection, he shall immediately notify the local health officer of the name and address of the diseased person and the essential facts in the case.

Medications.

Section 104. It is unlawful to prescribe, sell or recommend any drugs, medicines, or other substances for the cure or alleviation of venereal disease except upon prescription signed by a physician legally authorized to practice medicine in this state.

Certificate of freedom from disease.

Section 105. No person shall issue a certificate of freedom from venereal disease. However, a physician or health officer may issue a statement of freedom from diseases in an infectious state only if it is written in such form or given under safeguards that will prevent its use in solicitation for sexual intercourse. These statements shall not be used for solicitation for immoral purposes.

Information.

Section 106. Information concerning persons infected or reasonably suspected to be infected with venereal disease may only be released to:

(1) personnel of the state department of health; or

(2) a physician who has written consent of the person whose record is requested.

Standard test for syphilis.

Section 107. The department shall approve a standard serological test for syphilis. It shall also approve laboratories which may make such tests. On request the department shall make laboratory tests required by this chapter without charge. The department shall destroy the results of a test if an erroneous report is made.

Blood samples—pregnant women.

Section 108. Blood samples shall be taken from pregnant women and submitted to an approved laboratory for a standard serological test for syphilis as follows:

HeinOnline -- 1967 vol. I 497 1967

(1) any physician or other person authorizied by law to practice obstetrics who attends a pregnant woman shall at the first professional visit take the blood sample and submit it to the laboratory.

(2) a person permitted to attend pregnant women but not permitted to take blood samples shall have the sample taken by a person permitted to take blood samples and submitted to a laboratory. If a pregnant woman refuses to give a blood sample, the person in attendance is not guilty of violating provisions of this section.

Positive findings.

Section 109. Immediately after a positive laboratory test for venereal diseases is made, it shall be reported to the department by the person responsible for performing the tests. The department shall prescribe the form and way of reporting.

Birth and death certificate to show test.

Section 110. A birth or fetal death certificiate shall state whether a blood test for syphilis has been made on a specimen of blood taken from the mother. However, no birth or fetal death certificate may show the result of the test. The certificate shall state the approximate date when the specimen was taken. If no test was made, the reason shall be stated.

Section 111. The department may use information derived from reports of positive tests for venereal diseases for follow-up procedures required by law or deemed necessary by the department for the protection of public health.

Section 112. Rules adopted by the state board for carrying out the provisions of this chapter are binding on all persons and have the effect of law.

Violation.

Section 113. A person who violates provisions of this chapter or rules adopted by the state board concerning venereal disease, or who fails or refuses to obey any lawful order issued by a state or local health officer is guilty of a misdemeanor.

Shoddy control.

Shoddy Control

"Mattress."

Section 114. As used in this chapter, unless the context clearly indicates otherwise, "mattress" means any quilted pad, comforter, mattress, mattress pad, hammock pad, bunk quilt, settee, couch, daybed, davenport, overstuffed chair, cushion or pillow filled with any soft material capable of use for sleeping or reclining purposes.

HeinOnline -- 1967 vol. I 498 1967

Manufacture or renovation of matresses.

Section 115. A person shall not manufacture or renovate for sale, consignment or rental a mattress unless it bears a label not smaller than six (6) square inches securely attached to the covering which states the name and address of the manufacturer or vendor, and type and percent of various materials used in filling. If the mattress contains second hand material, or has been renovated or remade, the label shall contain the words "second hand material." The labels shall be in the form, and contain information, as prescribed by the state board of health.

Unlawful acts.

Section 116. A person shall not:

(1) manufacture or renovate for sale, consignment or rental a mattress containing material designated as unfit for filling by rules adopted by the state board;

(2) manufacture or renovate for sale, consignment or rental a mattress which contains second hand materials or materials designated shoddy by the state board unless the mattress has been fumigated or sterilized by a process approved by the state board;

(3) use in a description for any mattress a term or designation that is likely to mislead;

(4) remove, alter, or deface any label required by section 115 of this act.

Rules and regulations.

Section 117. The state board may adopt rules and standards for mattress fillings to protect public health.

Entry of premises.

Section 118. Officers and employees of the state department of health, local health officials, or officials discharging similar duties may enter establishments where mattresses are manufactured, renovated or sold and examine the premises or records to determine whether statutes, or rules and standards adopted by the state board are being violated.

Condemnation of mattresses.

Section 119. The department may condemn and seize mattresses found in violation of this chapter or rules or standards adopted by the state board. Mattresses seized shall be inspected by the nearest police judge or justice of the peace together with any information obtained. The judge or justice shall dispose of the mattresses or destroy them in the way which will best satisfy the requirements of law.

HeinOnline -- 1967 vol. I 499 1967

Offenses.

Section 120. The unit for a separate and distinct offense in violation of this chapter is each mattress made, remade, renovated, sold, offered for sale, delivered, consigned, rented, or possessed with intent to sell, deliver, consign, or rent.

Water pollution.

Water Pollution

Section 121. (1) it is the public policy of this state to:

(a) conserve water by protecting, maintaining, and improving the quality and potability of water for public water supplies, wildlife, fish and aquatic life, agriculture, industry, recreation, and other beneficial uses;

(b) provide a comprehensive program for the prevention, abatement, and control of water pollution.

Treatment.

(2) It is not necessary that wastes be treated to a purer condition than the natural condition of the receiving stream. However, municipal or industrial pollution upstream shall not be considered natural.

Section 122. As used in this chapter, unless the context clearly indicates otherwise:

"Sewage."

(1) "Sewage" means water-carried waste products from residences, public buildings, institutions, or other buildings including discharge from human beings or animals together with ground water infiltration and surface water present.

"Industrial waste."

(2) "Industrial waste" means any waste substance from the process of business or industry, or from the development of any natural resource together with any sewage that may be present;

"Other wastes."

(3) "Other wastes" means garbage, municipal refuse, decayed wood, sawdust, shavings, bark, lime, sand, ashes, offal, night soil, oil, tar, chemicals, and all other substances that may pollute state waters;

"Contamination."

(4) "Contamination" means impairment of the quality of state waters by sewage, industrial wastes or other wastes creating a hazard to human health;

"Pollution."

(5) "Pollution" means the alteration of any of the properties of state waters which is detrimental to their most beneficial use;

HeinOnline -- 1967 vol. I 500 1967

(6) "Sewerage system" means any device for collecting or conducting sewage, industrial wastes or other wastes to an ultimate disposal point; "Sewerage system."

(7) "Treatment works" means any works installed for treating or holding sewage, industrial wastes or other wastes; "Treatment works."

(8) "Disposal system" means a system for disposing of sewage, industrial, or other wastes and includes sewerage systems and treatment works; "Disposal system."

(9) "State waters" means any body of water, irrigation system, or drainage system either surface or underground; "State waters."

(10) "Person" means the state, any political subdivision of the state, institution, firm, corporation, partnership, or individual or other entity; "Person."

(11) "Council" means the state water pollution control council. "Council."

Section 123. Waters shall be classified only for industrial use if primarily and continuously devoted to industrial waste use except for seasonable variations for a period of over thirty (30) years, and not used for human consumption in a single public supply system serving more than one hundred (100) persons. Industrial use of water.

Section 124. This chapter does not apply to drainage or seepage from artificial, privately owned bodies of water unless drainage reaches flowing waters in a condition which would pollute the flowing waters. Exemptions.

Section 125. Under council supervision, the state board of health has responsibility for administration of the provisions of this chapter. The state board may use personnel of the state department of health as necessary to administer the provisions of this chapter.

Section 126. It is unlawful to: Unlawful acts.

(1) cause pollution as defined in section 122 (5) of this act to any state waters or to place or cause to be placed any wastes in a location where they are likely to cause pollution of any state waters;

(2) carry on any of the following activities without a current permit from the department:

HeinOnline -- 1967 vol. I 501 1967

(a) operate a disposal system which discharges to the state waters;

(b) construct or modify a disposal system which discharges to the state waters;

(c) increase the volume or strength of sewage, industrial wastes, or other wastes in excess of the permissive discharges specified under any existing permit;

(d) construct or use any new outlet for the discharge of sewage, industrial wastes, or other wastes to the state waters.

Permits and use.

Section 127. The department may require plans and specifications to determine if a permit should be issued. If a violation of a permit causes damage to a water use, the department may immediately order revocation of the permit without a hearing, and so notify the violating person in writing, by registered mail, return receipt requested, the revocation to be effective immediately upon receipt of such notice by such person.

Cooperation by state board.

Section 128. (1) The state board shall advise, consult, and cooperate with other states, other state agencies and agencies of the federal government, affected groups, political subdivisions and industries, in the formulation of a comprehensive plan to control water pollution.

(2) The state board may:

(a) accept loans and grants from the federal government and from other sources to carry out the provisions of this chapter;

(b) modify council actions, but only as necessary to protect human health;

(c) through its authorized representatives, enter upon any private or public property at reasonable times to investigate conditions relating to pollution of state waters;

(d) issue, modify, or revoke orders for the abatement of pollution;

(e) issue, revoke, modify, or deny permits to persons for the collection and discharge of sewage and wastes under conditions prescribed by the state board and the council.

HeinOnline -- 1967 vol. I 502 1967

Duties of department.

Section 129. The department shall:

(1) examine and approve or disapprove plans and other information needed to issue a permit;

(2) collect and furnish information relating to the prevention and control of water pollution;

(3) conduct necessary research and demonstrations concerning water pollution.

State water pollution control council.

Section 130. There is a state water pollution control council whose members are:

(1) the executive officer of the state department of health;

(2) the state fish and game director;

(3) the director of the water conservation board;

(4) four (4) members appointed by the governor for terms of four (4) years as follows:

(a) a representative of industry concerned with the disposal of inorganic waste;

(b) a representative of industry concerned with the disposal of organic waste;

(c) a representative of agriculture;

(d) a representative of municipal government.

Terms of office.

Section 131. Terms of council members holding office on the effective date of this act shall not be affected. An appointment to an expired term shall be for four (4) years. An appointment to an unexpired term shall be for the remainder of the term. The four (4) appointed members shall receive twenty dollars ($20) per day plus actual and necessary expenses incurred in performing their duties. Expenses shall be paid by the department of health from funds appropriated and allocated to water pollution control.

Officers—duties.

Section 132. (1) The council shall select a chairman from among its members. The executive officer shall designate a member of the public health engineering staff of the department to act as secretary to the council. The secretary shall keep records of all actions taken by the council.

HeinOnline -- 1967 vol. I 503 1967

(2) It shall hold at least two (2) regular meetings each calendar year. Special meetings shall be held at the call of the chairman or upon written request of two (2) or more members. A majority of the members is a quorum.

(3) Each member may, by filing with the secretary designate a deputy or alternate to perform his duties.

Section 133. The council shall:

(1) establish and modify the classification of all waters in accordance with their present and future most beneficial uses;

(2) investigate means of eliminating materials which pollute state waters, and prevent pollution that is detrimental to the public health, recreation, agriculture, industry, animals, fish or aquatic life;

(3) adopt rules to guide the state board and department in the administration of this act;

(4) adopt a comprehensive program for prevention of pollution of waters;

(5) recommend and encourage research and demonstrations relating to water pollution;

(6) direct the state board and department regarding any action necessary as a result of research or demonstrations;

(7) formulate standards of water purity and classification of water according to its most beneficial use giving consideration to the economics of waste treatment and prevention;

(8) hold any hearings necessary for the proper administration of this act; receive complaints, and make investigations;

(9) utilize staff services of the state board and department as they are able to furnish within budgetary limits;

(10) exercise all incidental powers necessary to carry out the provisions of this chapter.

Classification of streams.

Section 134. Before streams are classified, or standards established or modified, the council shall hold a public hearing. Notice of the hearing specifying the

HeinOnline -- 1967 vol. I 504 1967

waters concerned and the classification, standards or modification of them shall be published at least once a week for three (3) consecutive weeks in a newspaper of general circulation in the area affected. Notice shall also be mailed directly to persons the council believes may be affected by the classification or standard.

Order—when final—rehearing.

Section 135. Any order of the council or state board is final thirty (30) days after notice is given to the person affected unless a rehearing is held before that time. The procedure for a rehearing is:

(1) the person affected by the order shall request a rehearing before the council;

(2) before the thirty-first (31st) day after receipt of the request, the council shall hold a rehearing;

(3) a record or summary of the rehearing shall be filed with the council together with its findings of fact;

(4) a representative of the council may administer oaths, examine witnesses, and issue notices of the rehearing including subpoenas requiring the testimony of witnesses and the production of evidence;

(5) witnesses shall receive the same fees and mileage as in other civil actions;

(6) in case of failure to obey a notice of hearing or subpoena, the district court where the hearing is held has jurisdiction upon request by the council to issue an order requiring a person to appear and testify or produce evidence, and failure to obey shall be punished as contempt of district court;

(7) the council shall affirm, modify, or reverse the order of the council or the board and notify the person of its action;

(8) the order of the council or the state board is final thirty (30) days after notice of final action is served on the person by registered mail unless the person has appealed to the district court.

Appeal.

Section 136. The procedure for appealing the decision of the council at a rehearing is:

(1) within thirty (30) days after the receipt of a copy of the council's decision, a person shall serve notice of appeal on the council through its secretary;

HeinOnline -- 1967 vol. I 505 1967

(2) for good cause, the court may extend the time for notice of appeal but not to exceed an additional sixty (60) days;

(3) the notice of appeal shall refer to the action and specify the ground of appeal;

(4) the notice of appeal with proof of service shall be filed with the clerk of the court before the eleventh day after service of the notice;

(5) any person affected may become a party by intervention as in a civil action upon showing cause;

(6) the attorney general shall represent the council if requested, or the council may appoint special counsel for the proceedings;

(7) no bond or deposit for cost is required of the state or council upon the appeal to the district court or any subsequent appeal;

(8) the trial shall be de novo;

(9) the court shall determine whether or not the council regularly pursued its authority, or whether the orders of the board and the findings of the council are sustained; and whether the orders and findings are reasonable under the circumstances of the case;

(10) an appeal from the decision of the district court may be made to the supreme court in the same manner provided in other civil cases;

(11) upon final determination, the council shall enter an order in accordance with the determination made by the court.

Compliance with order.

Section 137. Before the thirty-first (31st) day after an order of the state board or the council becomes final, or a court judgment affirming or reversing the order is entered, the person upon whom the order was served shall initiate steps to comply with the order. On good cause shown, the state board or council may extend the period for compliance for a reasonable time.

Legal action.

Section 138. The council shall bring action for an injunction against any person who fails to comply with a final order of the state board or council.

HeinOnline -- 1967 vol. I 506 1967

Section 139. The council may require the assistance, cooperation, services, and use of records of all state agencies. State officers and employees shall cooperate with the council in furthering the purposes of this chapter.

Public Water Supplies

Public water supplies.

Section 140. It is the public policy of this state to protect, maintain, and improve the quality and potability of water for public water supplies and domestic uses.

Section 141. As used in this chapter, unless the context clearly indicates otherwise:

"Contamination."

(1) "Contamination" means impairment of the quality of state waters by sewage or industrial wastes creating a hazard to human health;

"Pollution."

(2) "Pollution" means the alteration of any of the properties of state waters which is detrimental to their most beneficial use;

"Drainage."

(3) "Drainage" means rainfall, surface, and subsoil water;

"Sewage."

(4) "Sewage" means domestic and manufacturing filth and waste;

"State waters."

(5) "State waters" means any body of water, irrigation system, or drainage system either surface or underground;

"Public water supply."

(6) "Public water supply" means any community well, water hauler for cisterns, water bottling plant, water dispenser, or other water supply that serves ten (10) or more families;

"Person."

(7) "Person" means any person, firm, corporation, water or ice company, public institution, municipality or other political subdivision of the state.

Responsibility of state board of health.

Section 142. The state board of health shall:

(1) have general supervision over all state waters which are directly or indirectly being used by a person for a public water supply or domestic purposes, or source of ice;

(2) adopt rules, standards, and issue orders to prevent pollution and protect the quality of water and for

HeinOnline -- 1967 vol. I 507 1967

the collection and analysis of samples of water used for drinking or domestic purposes giving legal notice of the adoption by publication or posting, and by filing a copy in the office of the clerk of the municipality or county where the rule or standard is effective.

Duties of state board.

Section 143. The state department of health shall:

(1) upon complaint to the department, or to the mayor or health officer of any municipality or to the managing board or officer of any public institution, make an investigation of any alleged pollution of a water supply, and, if required, prohibit the continuance of the pollution by ordering removal of the cause of pollution;

(2) have waters examined to determine their purity and the possibility that they may endanger public health;

(3) consult and advise authorities of cities and towns, and persons having or about to construct systems for water supply, drainage, waste water and sewage as to the most appropriate source of water supply and the best method of assuring its purity;

(4) advise persons as to the best method of purifying and disposing of their drainage, sewage, or waste water with reference to the existing and future needs of other persons and to prevent pollution;

(5) consult with persons engaged in or intending to engage in manufacturing or other business whose drainage, or sewage may tend to pollute any waters as to the best method of preventing pollution;

(6) with approval of the state board, fix fees for services rendered in analyzing water and inspections to cover costs of the service and deposit receipts in the general fund;

(7) establish and maintain experiment stations and conduct experiments to study the best methods of purifying water, drainage, waste water, sewage, and industrial waste to prevent pollution, including investigation of methods used in other states;

(8) enter upon any premises at reasonable times to determine sources of pollution or danger to water supplies and whether rules and standards of the state board are being obeyed;

HeinOnline -- 1967 vol. I 508 1967

(9) notify the attorney general of violations of laws on pollution of state waters.

Section 144. A person shall not:

Unlawful acts.

(1) discharge polluting matter of any kind that will pollute the quality of state waters used by a person for domestic use or as a source of supply by a city, town, public institution, water or ice company;

(2) discharge human excrement, sewage, drainage, refuse, or polluting matter into any state waters or on the banks of any state waters or into any abandoned or operating water well unless the sewage, drainage, refuse, or polluting water is purified to render it harmless as prescribed by the state board;

(3) build or operate any railroad, logging road, logging camp, electric or manufacturing plant of any kind on any watershed of a public water supply system, unless:

(a) the water supply is protected from pollution by sanitary precautions prescribed by the state board; and

(b) a permit has been issued by the department after approval of detailed plans and specifications for sanitary precautions;

(4) construct, alter, or extend any system of water supply, water distribution, sewer, drainage, waste water, or sewage disposal without first submitting necessary maps and plans and specifications to the department for their advice and approval.

Drilling water wells—records.

Section 145. Every person drilling a water well to furnish water for public consumption shall keep a complete record of the depth, thickness and character of different strata, and other information prescribed by the board. Data shall be furnished to the department on forms prescribed by it. These data are available to the public at all reasonable times.

Judicial review.

Section 146. Any person aggrieved by a rule or standard of the state board may appeal to the district court. While the appeal is pending, the rule or standard of the state board is in force. The state board may request an injunction from the district court to require compliance with rules and standards.

HeinOnline -- 1967 vol. I 509 1967

Violation —penalty.

Section 147. Violation of this chapter, or any rule or order of the state board or department under the provisions of this chapter, is punishable for each offense by a fine of not more than one thousand dollars ($1,000), imprisonment for not more than one (1) year, or both.

Subdivisions.

Subdivisions

Section 148. It is the public policy of this state to extend present laws controlling water supply and sewage disposal to include individual wells affected by adjoining sewage disposal and individual sewage systems.

"Subdivision."

Section 149. As used in this chapter, unless the context clearly indicates otherwise, "subdivision" means any tract of land which is divided into two (2) or more parcels, any parcel of which is less than five (5) acres in size along an existing or proposed street, highway, easement, or right of way for sale, rent, or lease as residential, industrial, or commercial building lots described by reference to a map or survey of the property.

Sanitary restrictions.

Section 150. Any subdivision map or plat filed with the county clerk and recorder shall be subject to a sanitary restriction which must be recorded on, or attached to, the map or plat by the county clerk and recorder. No building or shelter which necessitates supplying water or sewage or waste disposal facilities for persons shall be erected until the sanitary restriction has been removed or modified. Before any restriction can be removed or modified by the county clerk and recorder, the map or plat of the subdivision must be submitted to the state department of health for their approval. Conditional approval may be given by the department after construction of a part of the water and sewage system, but permanent buildings shall not be occupied until the restriction has been removed or modified. The county clerk and recorder shall remove the sanitary restriction upon notice from the department that:

(1) the department approves plans and specifications for the public water facility and sewage facilities; or

(2) the subdivision map or plat is approved by the department for a subdivision not providing public water or sewage systems.

Filing.

Section 151. The county clerk and recorder shall not file or record any map or plat showing a subdivision unless it complies with the provisions of this chapter.

HeinOnline -- 1967 vol. I 510 1967

Rules and regulations.

Section 152. The state board shall make rules, including adoption of sanitary standards, necessary for administration and enforcement of this chapter. The rules and standards shall provide the basis for approving subdivision maps or plats for various types of water and sewage facilities, both public and private, and shall be related to size of lots, contour of land, porosity of soil, ground water level, type and construction of private water and sewage facilities, and other factors affecting public health.

Cadavers

Cadavers.

Section 153. Any medical school in the United States may procure unclaimed human bodies for use in teaching and demonstrations of anatomy.

Procedure to procure a human body for teaching purposes.

Section 154. The procedure to procure a human body for use in teaching and demonstrations of anatomy is:

(1) the medical school shall apply to the person or organization having custody of the unclaimed body asking that the body be delivered to the school for teaching and demonstration of anatomy;

(2) the medical school shall file a notarized statement with the state department of health showing that proper equipment is available for proper handling, security, and preservation of human bodies.

(3) the body shall be kept at the unit, institution, or hospital, for at least three (3) weeks after the date of death before it can be used;

(4) the medical school shall pay the costs of special preparation and transportation of the body;

(5) a burial permit shall accompany each body, and the medical school shall properly register the body and arrange for burial by a licensed mortician at the expense of the medical school;

(6) if there was no request by the deceased person that his body be buried immediately, the person or organization having custody may deliver an unclaimed body to the medical school applying. The medical school shall file a statement with the department stating that the body will be used only for teaching and demonstration of anatomy.

HeinOnline -- 1967 vol. I 511 1967

Post-mortem examinations limited.

Section 155. The right to perform an autopsy, or to dissect a human body, or make any post-mortem examination involving dissection of any part of a body, is limited to cases where:

(1) specifically authorized by law;

(2) a coroner is authorized to hold an inquest and then only to the extent that the coroner may authorize dissection or autopsy;

(3) authorized by a written statement of the deceased, whether the statement is of a testamentary character or otherwise;

(4) authorized by the husband, wife, or next of kin responsible by law for burial to determine the cause of death and then only to the extent so authorized;

(5) the decedent died in a hospital operated by the United States Veterans Administration, Montana School for the Deaf and Blind, or an institution in the department of institutions leaving no surviving husband, wife, or next of kin responsible by law for burial, and the manager or superintendent of the hospital or institution where death occurred obtains authority on order of the district court to determine the cause of death and then only to the extent authorized by court order;

(6) the decedent died in the state, was a resident, but left no surviving husband, wife, or next of kin charged by law with the duty of burial and the attending physician obtains authority on order of the district court for the purpose of ascertaining the cause of death, and then only to the extent authorized by court order after it has been shown that the physician made diligent search for the next of kin responsible by law for burial.

Autopsies to be performed by physician limited.

Section 156. All autopsies of a human body shall be performed by a physician legally authorized to practice medicine in this state. Upon completion, the physician shall send a written report of his findings, including the cause of death, to the next of kin of the decedent, representative of the decedent's estate, or other person lawfully requesting the report.

Dissection by mortician.

Section 157. This act shall not restrict the right of a licensed mortician to dissect a human body for proper preparation of the body for burial, cremation, or other disposition provided by law.

HeinOnline -- 1967 vol. I 512 1967

Violation —penalty.

Section 158. Unless authorized by law, any person who performs an autopsy, dissection, or other post-mortem examination or causes it to be made, is guilty of a misdemeanor. Upon conviction he shall be punished by a fine not exceeding five hundred dollars ($500).

Hospitals, Hospital Related Facilities, and Long-Term Care Facilities

Hospitals, hospital-related facilities, and long-term care facilities.

Section 159. As used in this chapter, unless the context clearly indicates otherwise:

"Hospital."

(1) "Hospital" means a place which for twenty-four (24) hours or more in each week:

(a) provides diagnosis, treatment, or care for two (2) or more non-related individuals who are suffering from illness, disease, injury, or deformity; or

"Hospital-related facility."

(b) provides obstetrical, surgical, or other medical or nursing care for two (2) or more non-related individuals.

(c) the term includes public health centers and medical facilities.

(2) "Hospital related facility" means a facility which provides:

(a) diagnosis, treatment, or care of individuals suffering from mental illness or mental retardation; or

(b) care or treatment for more than one (1) woman within six (6) months who is pregnant or who has delivered not more than ten (10) days before. The woman may not be related by blood or marriage to the person who owns or manages the facility.

"Long-term care facility."

(3) "Long-term care facility" means a place operated for profit or not, which provides nursing, personal care, or maintenance to four (4) or more persons who are unable to properly care for themselves, or provides sheltered care to four (4) or more aged persons not related to the operator by blood or marriage: It includes:

"Nursing homes"

(a) "Nursing homes" which are facilities furnishing skilled nursing care and related services;

"Personal care homes."

(b) "Personal care homes" which are facilities providing personal care and services to residents not in need of skilled nursing care;

HeinOnline -- 1967 vol. I 513 1967

"Boarding homes." (c) "Boarding homes" which are facilities providing only maintenance and sheltered care;

(d) facilities providing combinations of services provided by nursing homes, personal care homes, and boarding homes.

"Long-term care facility" not to include. (4) "Long-term care facility" does not include:

(a) a hospital, sanitarium, or other institution whose principal activity is the care and treatment of persons suffering from mental or nervous illness;

(b) hotels, motels, boarding houses, rooming houses, or similar accommodations.

"Person." (5) "Person" means any person, firm, partnership, association or corporation, or governmental unit;

"Governmental unit." (6) "Governmental unit" means the state, a state agency, any county, municipality, political subdivision of the state or an agency of any political subdivision;

"Resident." (7) "Resident" means a person who is in a long-term care facility as a patient or for personal or sheltered care;

"Facility." (8) "Facility" means a hospital, hospital related facility or long-term care facility.

Section 160. This chapter does not apply to facilities operated by an agency of the federal government.

Licensing. Section 161. (1) No person may operate a facility unless licensed by the state department of health. Licenses shall be for one (1) year unless issued for a shorter period. A license is valid only for the person and premises for which it was issued. A license may not be sold, assigned or transferred.

(2) Upon discontinuance of the operation or of transfer of ownership of a facility, the license must be returned to the department.

(3) Licenses shall be displayed in a conspicious place near where patients or residents are admitted.

Fee. Section 162. The department shall collect a fee of twenty dollars ($20) for each license issued and deposit receipts in the state general fund.

License application procedure. Section 163. The procedure to apply for a license is:

HeinOnline -- 1967 vol. I 514 1967

(1) at least thirty (30) days prior to the opening of a facility and annually thereafter, application is made to the department accompanied by the license fee of twenty dollars ($20);

(2) the application shall contain:

(a) the name and address of the applicant if an individual; or the name and address of each member if a firm, partnership or association; or the name and address of each officer if a corporation;

(b) the location of the facility;

(c) the name of the person or persons who will manage or supervise the facility;

(d) the number and type of patients or residents for which care is provided;

(e) any information which the state board of health may require pertaining to the number, experience, and training of employees;

(f) information on ownership, contract or lease agreement, if operated by a person other than the owner.

Inspection—qualification.

Section 164. (1) On receipt of a new or renewal application, the department, or its authorized agent, shall inspect the facility. If minimum standards are met and the proposed staff is qualified, the department shall issue a license for one (1) year. If minimum standards are not met, the department may issue a provisional license for less than one (1) year if operation will not result in undue hazard to patients or residents or if the demand for accommodations offered is not met in the community.

(2) Licensed premises shall be open to inspection and access to all records shall be granted at all reasonable times.

Denial of application.

Section 165. The department may deny an application for long-term care facility license if:

(1) it fails to meet minimum standards prescribed under section 171 of this act;

(2) the staff is insufficient in number or unqualified by lack of training or experience;

(3) the applicant or any person managing it has been convicted of a felony or otherwise shows evidence of

HeinOnline -- 1967 vol. I 515 1967

character traits inimical to the health and safety of residents;

(4) it does not have the financial ability to operate in accordance with law, or rules, or standards adopted by the state board.

Revocation of license.

Section 166. The department may revoke or refuse to renew a long-term care facility license if:

(1) there is cruelty or indifference affecting the welfare of the residents;

(2) there is misappropriation of the property or funds of a resident;

(3) there is conversion of the property of a resident without his consent;

(4) any provision of this chapter, or rules or standards adopted by the state board are violated;

(5) any reason enumerated in section 165 of this act exists.

Failure to comply with act.

Section 167. The department may deny, suspend, or revoke a hospital or hospital related facility license if it finds there has been substantial failure to comply with the provisions of this chapter.

Procedure to deny, suspend or revoke license.

Section 168. (1) if a license is denied, suspended, or revoked, the procedure is:

(a) notice is given by registered mail or personal service to the applicant or licensee stating the reason for the proposed action and specifying a date, not less than fifteen (15) days after mailing or service, for a hearing before the state board;

(b) witnesses may be subpoenaed by either party;

(c) in accordance with rules adopted by the state board, a hearing is held before the state board;

(d) a full and complete record shall be kept of all proceedings, but need not be transcribed unless the decision is appealed to the district court;

(e) on the basis of the hearing, or default of the applicant, the state board shall make findings of fact and conclusions of law;

HeinOnline -- 1967 vol. I 516 1967

(f) the applicant or licensee shall be notified by registered mail or personal service of the state board's decision;

(g) the decision of the state board is final thirty (30) days after it is mailed or served unless the applicant or licensee commences an action in the district court to appeal the decision.

(2) A copy of the transcript of any hearing may be obtained by any person on payment of the costs of preparing the copy.

Judicial review —procedure.

Section 169. If any applicant or licensee is aggrieved by the decision of the state board after the hearing provided in section 168 of this act, the procedure is:

(1) before the thirty-first (31st) day after mailing or service of the state board's decision, the applicant or licensee shall file a complaint in the district court where the facility is located or will be located;

(2) summons shall be issued, and proceedings shall be conducted as in the case of other civil actions;

(3) the state board shall file a certified copy of the record and decision from the hearing with the court upon filing its answer to the complaint;

(4) findings of fact by the state board shall be conclusive unless substantially contrary to the evidence, or unless in conflict with law;

(5) the court may remand the case to the state board for further evidence if good cause is shown;

(6) on rehearing the state board may affirm, reverse, or modify its decision;

(7) the court may affirm, reverse, or modify the rehearing decision of the state board;

(8) either party may appeal the final decision of the district court;

(9) pending final disposition of a matter appealed, the status quo of the applicant or licensee shall be preserved unless the court orders otherwise.

Rules for alteration of facility.

Section 170. The state board may adopt rules to require an applicant or licensee who comtemplates altera-

HeinOnline -- 1967 vol. I 517 1967

tion or addition to a facility to submit plans and specifications to the department for preliminary inspection and approval prior to commencing construction.

Standards of care.

Section 171. (1) The board shall adopt and publish rules and minimum standards for all long-term care facilities distinguishing between those for nursing care, personal care, sheltered care, and facilities providing combinations thereof.

(2) Standards shall relate to:

(a) location and construction of the facility including plumbing, heating, lighting, ventilation, and other conditions affecting the health, safety, or comfort of residents;

(b) number and qualifications of personnel;

(c) sanitary conditions including water supply, sewage disposal, food handling, laundries, and general hygiene;

(d) diet based on good nutritional practice, needs of residents, and recommendations of attending physicians;

(e) fixtures and equipment essential to the health and safety of residents;

(f) age and physical requirements for admission;

(g) records of residents' medical history, funds, property, and contract with the operator or manager;

(h) medical supervision and resident care including use of physical restraints;

(i) reporting of contagious diseases, epidemics, or food poisoning;

(j) administration including the storage and handling of medications, narcotics, barbituates, and compressed gases;

(k) visiting hours and areas.

(3) All long-term care facilities of nonfire-resistant construction, of two (2) stories or more in height having ten (10) or more residents, must have an automatic sprinkler system approved by the state fire marshal. The fire marshal shall furnish the state board with certifi-

HeinOnline -- 1967 vol. I 518 1967

cates of compliance with fire protection rules and standards.

Hospital and long-term care facility advisory council.

Section 172. (1) The governor shall appoint a hospital and long-term care facility advisory council to consult with the state board in administering this chapter and statutes relating to hospitals, medical and related facilities survey and construction contained in sections 180 through 192 of this act.

Members.

(2) The council consists of:

(a) the executive officer of the department of health who is ex officio chairman;

(b) the state administrator of public welfare, ex officio;

(c) the director of the department of institutions, ex officio;

(d) representatives of nongovernmental organizations or groups, and public agencies, concerned with the operation and construction of hospitals and hospital related facilities;

(e) two (2) persons of recognized experience in the operation of long-term care facilities;

(f) representatives of consumers familiar with the need for services provided by hospitals, hospital related facilities, and long-term care facilities;

(g) additional members required for benefits under any federal law.

Terms.

Section 173. (1) Members of the first council shall serve for one (1), two (2), or three (3) years as designated by the governor. The governor shall avoid expiration of the terms of more than one-third (1/3) of the initial appointive members terms in any twelve (12) month period. After the initial appointments, appointed members serve for three (3) year terms. Appointments for unexpired terms shall be for the remainder of the term.

Meetings.

(2) The council meets at the call of the chairman, or at the request of four (4) of the appointed members.

Compensation.

(3) Members, except ex officio members, are reimbursed at the rate of ten dollars ($10) per day for actual expenses and eight cents (8¢) per mile for travel.

HeinOnline -- 1967 vol. I 519 1967

Rules and standards.

Section 174. With the advice of the hospital and long-term care facility advisory council, the state board shall adopt rules and standards for facilities licensed under this chapter. The department shall extend a reasonable time for compliance with rules after adoption by the state board.

Discrimination among patients prohibited.

Section 175. (1) No person who operates a facility may discriminate among the patients of licensed physicians. The free and confidential professional relationship between licensed physician and patient shall continue and remain unaffected. Physicians shall continue to have direction over their patients.

(2) This chapter, and rules and standards adopted by the state board, may not authorize the supervision, regulation, or control of care or treatment of persons in any home or institution conducted for those who rely upon treatment by prayer or spiritual means in accordance with the creed or tenets of any well recognized church or religious denomination. However, a license is required and all other minimum standards apply.

Information confidential

Section 176. Information received by the department or board through reports, inspection, or provisions of this chapter may not be disclosed in a way which would identify individuals or facilities, except in a proceeding involving the question of licensure or as required by the federal government for certification or preparation of a state plan.

Records and reports.

Section 177. Licensees shall keep records, and make reports, as required by the state board. Before February 1 of each year, every person licensed under this chapter shall submit an annual report for the preceding calendar year to the department. The report shall be on forms and contain information specified by the board.

State may maintain injunction against facility.

Section 178. The state board or department, on advice of the attorney general, may maintain an action for injunction or other process against any person to restrain or prevent the establishment, conduct, management or operation of a facility which is endangering health and welfare.

Violation penalty.

Section 179. A person who violates provisions of this chapter is guilty of a misdemeanor. On conviction he shall be fined not more than one hundred dollars ($100)

HeinOnline -- 1967 vol. I 520 1967

for the first offense, and not more than three hundred dollars ($300) for each subsequent offense. Each day of a continuing violation after conviction is a separate offense.

Hospitals, Medical and Related Facility Survey and Construction

Hospitals, medical and related facility survey and construction.

Section 180. As used in this chapter, unless the context clearly indicates otherwise:

(1) "Federal acts" are federal statutes for the construction of medical or related facilities. "Federal acts."

(2) "Hospital" includes public health centers and general, pulmonary disease, tuberculosis, mental, chronic disease, and other types of hospitals, and related facilities such as laboratories, out-patient departments, nurses' homes and training facilities, and central service facilities created in connection with hospitals, but does not include a hospital furnishing primarily domiciliary care. "Hospital."

(3) "Medical facility" means a diagnostic or diagnostic and treatment center, rehabilitation facility, facility for long term care as defined by federal acts, and other medical facilities for which federal aid is or may be authorized. "Medical facility."

(4) "Related facility" includes a facility devoted to the diagnosis, treatment, or care of individuals afflicted with mental illness or mental retardation. "Related facility."

(5) "Health center" means a publicly owned facility providing public health services including publicly owned laboratories, clinics, and administrative offices operated in connection with the facility. "Health center."

(6) "Nonprofit hospital or nonprofit medical facility" means a hospital or medical facility owned or operated by one (1) or more nonprofit corporations or associations if no part of the net earnings inure to the benefit of any private shareholder or individual. "Nonprofit hospital or nonprofit medical facility."

(7) "Council" means the hospital and long-term care facility advisory council created by section 172 of this act. "Council."

Section 181. The state department of health is the principal state agency for establishing and administering State department of health principal state agency.

HeinOnline -- 1967 vol. I 521 1967

a state wide plan for construction, modernization, alteration, equipment, maintenance, or operation of any hospital, medical, or related facility for provision of care, treatment, diagnosis, rehabilitation, training, or related service. With approval of the state board of health, the executive officer of the state department of health may enter into contracts and agreements with agencies of the federal government to secure the benefit of federal programs to provide adequate medical and related facilities and services.

Department shall perform.

Section 182. The department shall:

(1) inventory existing hospitals, medical and related facilities;

(2) survey the need for construction or alteration of hospitals;

(3) develop and administer a state plan for the construction and alteration of public and other nonprofit hospitals, medical and related facilities;

(4) if desirable, enter into agreements after approval by the state board for the utilization of facilities and services of other departments, agencies, and institutions, public or private;

(5) accept and deposit with the state treasurer and spend any grant, gift, or contribution made to meet costs of carrying out the purposes of this act.

Rules.

Section 183. The state board shall adopt necessary rules for the administration of this chapter.

Duties of department.

Section 184. With approval of the state board, the department shall:

(1) prepare and review a construction program in accordance with federal requirements that will provide adequate hospital, medical and related facilities to people in the state providing, as far as possible, for distribution throughout the state to make all types of services reasonably acceptable to all persons;

(2) submit to federal agencies state plans including those for the hospital, medical and related facilities construction program and modifications of it providing for the establishment and operation of hospital, medical and related facilities construction activities in accordance with federal requirements;

HeinOnline -- 1967 vol. I 522 1967

(3) make application to the appropriate federal agency for funds to assist in carrying out the survey and planning activities. Federal funds shall be deposited in the state treasury and used only for the purposes specified by law. Money which is not spent for those purposes shall be repaid to the federal government.

(4) after approval of a plan by the appropriate federal agency, publish a description in newspapers having general circulation throughout the state, and make the plan available upon request to all persons or organizations;

(5) inspect construction or alteration projects approved by the appropriate federal agency and, if satisfactory, certify that work has been performed on the project or purchases made in accordance with approved plans and specifications, and that payment of federal funds is due to the applicant;

(6) require reports, and make inspections and investigations, as necessary or required by the federal agency;

(7) contract with consultants for services which are performed on a part-time or fee-for-service basis not involving administrative duties.

Publicity for plans.

Section 185. Before submitting plans to a federal agency, the state board shall give adequate publicity including a general description of the plans, and may hold a public hearing at which all persons or organizations may express their views.

Minimum standards.

Section 186. After consultation with the council, the state board shall prescribe minimum standards for the maintenance and operation of hospitals, medical and related facilities receiving federal aid for construction under the state plan.

Need for projects

Section 187. The state plan shall specify relative need for the projects included in the construction program in accordance with regulations prescribed under federal acts, and provide for the construction, maintenance, and operation in the order of relative need determined by the state board.

Application for facilities.

Section 188. Applications for hospital, medical and related facilities construction projects may be submitted by a state agency, a political subdivision, or by any public

HeinOnline -- 1967 vol. I 523 1967

or nonprofit agency authorized to construct and operate a hospital, medical or related facility.

Processing of application.

Section 189. If the state board, after affording reasonable opportunity for development and presentation of applications in the order of relative need, finds that an application complies with state and federal requirements and conforms to the state plan, the state board shall forward the application to the appropriate federal agency. If an application is denied, the applicant shall have an opportunity for a fair hearing.

Federal aid.

Section 190. The state board may accept federal funds. All federal funds received shall be deposited in the state treasury. The executive officer shall transmit federal funds to applicants for work performed, or purchases made, in carrying out approved projects. Claims for all payments shall be approved by the executive officer.

Consolidated application.

Section 191. Boards of county commissioners of two (2) or more counties may submit a consolidated application for a single hospital, medical facility, or health center serving each of the counties included in the application. Any statutes investing counties with powers to construct, maintain, and operate hospitals or medical facilities directly, or by lease or contract, may be utilized for this joint action. All statutes governing submission of questions of establishing a hospital or medical facility, hospital or medical facility construction, issuance of bonds, method of operation, and requiring a majority vote of taxpayers on the questions shall apply. Concurrent and joint action of two (2) or more counties and approval by a majority of the voters in each county is required to authorize the issuance of bonds, construction, and contracts under a consolidated plan.

Discrimination prohibited.

Section 192. No person shall deny another person the use of any facility constructed in whole or in part under this chapter in a professional or other capacity, or discriminate against another person on the grounds of race, color, or national origin.

Cesspools, septic tanks and privies.

Cesspools, Septic Tanks, and Privies

Section 193. No person, partnership, firm, or corporation shall engage in the business of cleaning cesspools, septic tanks or privies unless licensed by the state depart-

HeinOnline -- 1967 vol. I 524 1967

ment of health. The department may deny, suspend, or revoke a license for noncompliance with this chapter or rules adopted by the state board of health.

Licensing—application—form.

Section 194. Application for a license is made to the department. The application shall show:

(1) the name in full, and if a partnership, the name of each partner;

(2) place of business;

(3) place of residence of the applicant or applicants;

(4) number of units and type of equipment to be used;

(5) a statement that the applicant will comply with rules adopted by the state board under this chapter;

(6) the signature of the individual, authorized officer of the firm or corporation, or managing partner of the partnership applying.

Section 195. Licenses issued by the department shall be titled "Montana Sanitary Licensee," and numbered consecutively beginning with the number ten (10). Licenses expire on December 31 of each calendar year. Licenses are not transferable. The fee for each license is five dollars ($5). Fees shall be deposited in the state general fund.

Fee.

Vehicle designation.

Section 196. Persons licensed shall paint on the side of each vehicle used the words "Montana Sanitary Licensee" and immediately under those words shall paint "License No. ..... (insert number of license)." License numbers shall be at least one and one-half (1½) inches high and in a distinct color contrasting with the background.

Cleaning of facilities—permit.

Section 197. Each person licensed under the provisions of this chapter who cleans a cesspool, septic tank, or privy shall secure a permit from the local health officer, or his authorized representative, having jurisdiction. The permit shall be issued only after satisfactory examination of the applicant's knowledge of sanitary principles, laws and ordinances; reliability in observing sanitary laws; and ability to clean the septic tank, cesspool, or privy without endangering human health or safety. The permit shall contain the name of the applicant, date of clean-

HeinOnline -- 1967 vol. I 525 1967

ing, name and address of the owner of the cesspool, septic tank or privy, and the place and means of disposing of the waste. The person issuing the permit shall be paid a fee of one dollar ($1).

Fee.

Section 198. The state board shall adopt necessary rules for carrying out the provisions of this chapter.

Exclusions.

Section 199. The license provisions of this chapter do not apply to any county or municipality which desires to clean septic tanks, cesspools, or privies publicly owned or controlled by them. However, counties and municipalities shall comply with rules adopted by the state board for cleaning cesspools, septic tanks, or privies.

Enforcement—violation and penalty.

Section 200. State and local health officers, and their representatives, are responsible for the enforcement of this chapter. Any person who fails to comply with provisions of this chapter or orders of a health officer made under this chapter for the protection of human health is guilty of a misdemeanor. Upon conviction he shall be fined not more than one hundred dollars ($100), imprisoned for not more than thirty (30) days, or both, for each offense. Fines collected shall be deposited in the general fund of the county in which the action is brought.

Public swimming and bathing places.

Public Swimming Pools and Bathing Places

Section 201. It is the public policy of this state to regulate public swimming pools and public bathing places to protect public health.

Section 202. As used in this chapter, unless the context clearly indicates otherwise:

"Public swimming pool."

(1) "Public swimming pool" means any artificial pool and bathhouses and related appurtenances for swimming, bathing, or wading, including natural hot water pools. The term does not include:

(a) swimming pools located on private property used for swimming or bathing only by the owner, members of his family, or their invited guests;

(b) medicinal hot water baths for individual use.

"Public bathing place."

(2) "Public bathing place" means a body of water and bathhouses and related appurtenances operated for the public.

HeinOnline -- 1967 vol. I 526 1967

"Person."

(3) "Person" means a person, firm, partnership, corporation, organization, the state, or any political subdivision of the state.

Rules for sanitation.

Section 203. The state board of health shall adopt rules for sanitation in public swimming pools and public bathing places to protect public health.

Supervision.

Section 204. The state department of health shall supervise the sanitation of public swimming pools and public bathing places.

Authority of department.

Section 205. Authorized employees of the department and local boards of health may:

(1) at reasonable times inspect public swimming pools and public bathing places to determine if provisions of this chapter and rules of the state board are being violated;

(2) request an injunction from the district court to enjoin actions in violation of this chapter or rules adopted by the state board;

(3) bring actions to abate nuisances maintained in violation of this chapter in the manner provided by law for the summary abatement of other public nuisances;

(4) enforce rules adopted by the state board.

Reports.

Section 206. The department may publish reports of inspections authorized by section 205(1) of this act.

Plans—approval.

Section 207. A person planning to construct a public swimming pool or develop a public bathing place shall submit plans to the department prior to construction. The department shall review the plans and approve or disapprove them.

Duties of operators.

Section 208. Each person operating a public swimming pool or public bathing place shall:

(1) operate the pool or public bathing place in a sanitary and safe manner;

(2) keep records of public health and safety information required by the department;

(3) furnish information to the department on forms prescribed by it.

Facilities to be sanitary, healthful and safe.

Section 209. Public swimming pools and public bathing places, including pool structures, methods of opera-

HeinOnline -- 1967 vol. I 527 1967

tion, source of water supply, methods of water purification, lifesaving apparatus, safety measures for bathers, and personal cleanliness measures for bathers, shall be sanitary, healthful, and safe.

Violaton of act public nuisance.

Section 210. The construction or operation of a public swimming pool or public bathing place contrary to the provisions of this chapter or rules adopted by the state board under the provisions of this chapter is a public nuisance and dangerous to public health.

Violation and penalty.

Section 211. A person who violates this chapter, or rules adopted by the state board under the provisions of this chapter, is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than twenty-five dollars ($25) nor more than five hundred dollars ($500), imprisonment for not more than six (6) months, or both. Each day that a violation continues is a separate violation.

Tourist campgrounds.

Tourist Camp Grounds

Section 212. As used in this chapter, unless the context clearly indicates otherwise, "tourist camp ground" means a place used for public camping primarily by automobile tourists. The term includes places where persons can camp or secure cabins or tents, trailer courts, and similar public places.

Rules.

Section 213. The state board of health shall adopt rules for operating tourist camp grounds to insure sanitation and protect public health.

Operator to perform.

Section 214. A person operating a tourist camp ground shall:

(1) obtain a license from the state department of health;

(2) post copies of rules adopted by the state board under the provisions of this chapter in conspicuous places on the tourist camp grounds;

(3) permit inspections by state or local health officers at all reasonable times.

Application for license.

Section 215. Application for a license is made to the department on forms, and containing information, required by the department. Each application shall be

HeinOnline -- 1967 vol. I 528 1967

accompanied by a fee of five dollars ($5). Licenses expire on December 31 of the year in which they are issued.

Denial.

Section 216. (1) The department may deny an application for a license or revoke a license that has been issued if a tourist camp ground does not comply with provisions of this chapter and rules adopted by the state board under provisions of this chapter.

Duties of department.

(2) The department shall:

(a) inspect tourist camp grounds during reasonable hours as necessary;

(b) supervise the inspection of tourist camp grounds by local health officers, sanitarians or other authorized persons as necessary;

(c) collect a fee of five dollars ($5) for each license issued and deposit receipts in the state general fund.

Hearing.

Section 217. If the department denies an application for a license or revokes a license that has been issued, an applicant or licensee is entitled to a hearing before the state board to show cause why the action should not be taken. If a hearing is desired, the applicant or licensee shall notify the executive officer of the department in writing before the sixth day after notice of the denial or revocation is received.

Violation and penalty.

Section 218. A person who violates provisions of this chapter, or rules adopted by the state board under provisions of this chapter, is guilty of a misdemeanor. On conviction he shall be fined not less than twenty-five dollars ($25) nor more than one hundred dollars ($100). Fines shall be paid to the county treasurer of the county in which the tourist camp ground is located. The county treasurer shall send all fines collected to the state treasurer for deposit in the state general fund.

Effective date.

Section 219. Sections 212, 213, 214, 215, 216, 217, and 218 shall be effective January 1, 1968.

Amending clause.

Section 220. Section 27-202, R.C.M. 1947, is amended to read as follows:

"27-202. **Definitions for purposes of Montana Insecticide, Fungicide, and Rodenticide Act of 1947—state board of health charged with administration and enforcement of act.** (a) The term 'economic poison' means any sub-

HeinOnline -- 1967 vol. I 529 1967

stance or mixture of substances intended for preventing, destroying, repelling, or mitigating any insects, rodents, fungi, weeds, or other forms of plant or animal life or viruses, except viruses or fungi on or in living man or other animals, which the director of the agricultural experiment station of Montana State *University* shall declare to be a pest.

"Economic poison."

"Insecticide." (b) The term 'insecticide' means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any insects which may be present in any environment whatsoever.

"Fungicide." (c) The term 'fungicide' means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any fungi.

"Rodenticide." (d) The term 'rodenticide' means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating rodents or any other vertebrate animals which the director of the agricultural experiment station shall declare to be a pest.

"Herbicide." (e) The term 'herbicide' means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any weed.

"Insect." (f) The term 'insect' means any of the numerous small invertebrate animals generally having the body more or less obviously segmented, for the most part belonging to the class insects, comprising six-legged, usually winged forms, as, for example, beetles, bugs, bees, flies, and to other allied classes of arthropods whose members are wingless and usually have more than six *(6)* legs, as for example, spiders, mites, ticks, centipedes, and wood lice.

"Fungi." (g) The term 'fungi' means all non-chlorophyll-bearing thallophytes (that is, all non-chlorophyll-bearing plants of a lower order than mosses and liverworts) as, for example, rusts, smuts, mildews, molds, yeasts, and bacteria, except those on or in living man or other animals.

"Weed." (h) The term 'weed' means any plant which grows where not wanted.

"Ingredient statement." (i) The term 'ingredient statement' means either:

(1) a statement of the name and percentage of each active ingredient, together with the total percentage of the inert ingredients, in the economic poison; or

HeinOnline -- 1967 vol. I 530 1967

(2) a statement of the name of each active ingredient, together with the name of each and total percentage of the inert ingredients, if any there be, in the economic poison (except Option 1 shall apply if the preparation is highly toxic to man, determined as provided in section 27-205); and, in addition to (1) or (2) in case the economic poison contains arsenic in any form a statement of the percentages of total and water soluble arsenic, each calculated as elemental arsenic.

(j) The term 'active ingredient' means an ingredient which will prevent, destroy, repel, or mitigate insects, fungi, rodents, weeds, or other pests. "Active ingredient."

(k) The term 'inert ingredient' means an ingredient which is not an active ingredient. "Inert ingredient."

(l) The term 'antidote' means the most practical immediate treatment in case of poisoning and includes first aid treatment. "Antidote."

(m) The term 'person' means any individual, partnership, association, corporation, or organized group of persons whether incorporated or not. "Person."

(n) The term 'board' means the state board of health *through the state department of health* of the state of Montana, hereby charged with the responsibility of administering and enforcing this act. "Board."

(o) The term 'registrant' means the person registering any economic poison pursuant to the provisions of this act. "Registrant."

(p) The term 'label' means the written, printed, or graphic matter on, or attached to, the economic poison, or the immediate container thereof, and the outside container or wrapper of the retail package, if any there be, of the economic poison. "Label."

(q) The term 'labeling' means all labels and other written, printed, or graphic matter, "Labeling."

(1) upon the economic poison or any of its containers or wrappers;

(2) accompanying the economic poison at any time;

(3) to which reference is made on the label or in literature accompanying the economic poison, except when

HeinOnline -- 1967 vol. I 531 1967

accurate, nonmisleading reference is made to current official publications of the United States departments of agriculture or interior, the United States public health service, state experiment stations, state agricultural colleges, or other similar federal institutions or official agencies of this state or other states authorized by law to conduct research in the field of economic poison.

"Adulterated." (r) The term 'adulterated' shall apply to any economic poison if its strength or purity falls below the professed standards or quality as expressed on labeling or under which it is sold, or if any substance has been substituted wholly or in part for the article, or if any valuable constituent of the article has been wholly or in part abstracted.

"Misbranded." (s) The term 'misbranded' shall apply:

(1) to any economic poison if its labeling bears any statement, design, or graphic representation relative thereto or to its ingredients which is false or misleading in any particular;

(2) to any economic poison:

(a) if it is an imitation of or is offered for sale under the name of another economic poison;

(b) if its labeling bears any reference to registration under this act;

(c) if the labeling accompanying it does not contain instructions for use which are necessary and, if complied with, adequate for the protection of the public;

(d) if the label does not contain a warning or caution statement which may be necessary and, if complied with, adequate to prevent injury to living man and other vertebrate animals;

(e) if the label does not bear an ingredient statement on that part of the immediate container and on the outside container or wrapper, if there be one, through which the ingredient statement on the immediate container cannot be clearly read, of the retail package which is presented or displayed under customary conditions of purchase;

(f) if any word, statement, or other information required by or under the authority of this act to appear on the labeling is not prominently placed thereon with

HeinOnline -- 1967 vol. I 532 1967

such conspicuousness (as compared with other words, statements, designs, or graphic matter in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use, or

(g) if in the case of an insecticide, fungicide, or herbicide, when used as directed or in accordance with commonly recognized practice it shall be injurious to living man or other vertbrate animals or vegetation, except weeds, to which it is applied, or to the person applying such economic poison."

Violation.

Section 221. Anyone who violates any provision of this act, or any rule adopted by the state board under the provisions of this act, for which no penalty is specified, is guilty of a misdemeanor.

Severability clause.

Section 222. It is the intent of the legislative assembly that if a part of this act is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this act is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Repealing clause.

Section 223. Sections 69-101 through 69-103, 69-105, 69-105.1, 69-105.2, 69-105.3, 69-105.4, 69-107, 69-109 through 69-127, 69-201 through 69-208, 69-301, 69-303 through 69-319, 69-401 through 69-404, 69-501 through 69-536, 69-536.1, 69-536.2, 69-537 through 69-539, 69-601 through 69-609, 69-701 through 69-712, 69-801 through 69-817, 69-901, 69-902, 69-1001 through 69-1025, 69-1122 through 69-1138, 69-1201 through 69-1220, 69-1301 through 69-1320, 69-1326 through 69-1346, 69-2001 through 69-2004, 69-2201, 69-2202, 69-2301 through 69-2310, 69-2407 through 69-2421, 69-2501 through 69-2504, 69-2601 through 69-2603, 69-2901 through 69-2918, 69-3001 through 69-3004, 69-3007 through 69-3016, 69-3016.1, 69-3017, 69-3018, 69-3101 through 69-3112, 69-3201 through 69-3210, and 69-3801 through 69-3813, R.C.M. 1947 are repealed.

Approved: February 28, 1967.

CHAPTER 198

An Act for the Codification and General Revision of the Laws of Montana Relating to NonProfit Corporations,

HeinOnline -- 1967 vol. I 533 1967

and Repealing Sections 15-1301, 15-1302, 15-1303, 15-1401, 15-1402, 15-1403, 15-1404, 15-1405, 15-1406, 15-1407, 15-1408, 15-1409, 16-1301, 16-1302, 16-1303, R.C.M. 1947; and Providing an Effective Date.

It is the intent of the legislative assembly that this bill be codified as one chapter of title 15, R.C.M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

"Montana nonprofit corporation act."

Section 1. **Short title.** This act shall be known and may be cited as the "Montana Nonprofit Corporation Act."

Section 2. **Definitions.** As used in this act, unless the context otherwise requires, the term:

"Corporation."

(a) "Corporation" or "domestic corporation" means a nonprofit corporation subject to the provisions of this act, except a foreign corporation.

"Foreign corporation."

(b) "Foreign corporation" means a nonprofit corporation organized under laws other than the laws of this state.

"Nonprofit corporation."

(c) "Nonprofit corporation" means a corporation, no part of the income or profit of which is distributable to its members, directors or officers.

"Articles of incorporation."

(d) "Articles of incorporation" means the original or restated articles of incorporation or articles of consolidation and all amendments thereto, including articles of merger.

"Bylaws."

(e) "Bylaws" means the code or codes of rules adopted for the regulation or management of the affairs of the corporation irrespective of the name or names by which such rules are designated.

"Member."

(f) "Member" means one's having membership rights in a corporation in accordance with the provisions of its articles of incorporation or bylaws.

"Board of directors."

(g) "Board of directors" means the group of persons vested with the management of the affairs of the corporation irrespective of the name by which such group is designated.

"Insolvent."

(h) "Insolvent" means inability of a corporation to pay its debts as they become due in the usual course of its affairs.

HeinOnline -- 1967 vol. I 534 1967

(i) "Filed" with the secretary of state shall be deemed to be the time of receipt of a document by him, if he subsequently finds that it conforms to law. Such finding shall relate back to the time of receipt, but receipt by the secretary of state shall not of itself constitute "filing" under this act. "Filed."

Section 3. **Applicability.** The provisions of this act relating to domestic corporations shall apply to: Applicability.

(a) All corporations organized hereunder;

(b) All nonprofit corporations heretofore organized under any act hereby repealed, for a purpose or purposes for which a corporation might be organized under this act.

The provisions of this act relating to foreign corporations shall apply to all foreign nonprofit corporations conducting affairs in this state for a purpose or purposes for which a corporation might be organized under this act.

From and after January 1, 1969, this act shall apply to all domestic corporations and to all foreign corporations conducting or seeking to conduct affairs within this state. Those domestic corporations existing at the time that this act becomes effective which have not meanwhile adopted this act, by complying with the provisions of this act, shall, on January 1, 1969, be deemed to have elected to adopt this act by not voluntarily dissolving.

Section 4. **Purposes.** Corporations may be organized under this act for any lawful purpose or purposes. All health service corporations formed under this act for the purposes of defraying or assuming the cost of professional services of licentiates in the field of health, or the services of hospitals, clinics or sanatoria, or both professional and hospital services, or acting as agent, factor or representative of, or contracting on behalf of organizations of such licentiates, or group, groups, or organizations of hospitals, or both licentiate and hospital organizations, in the matter of prepaid service plans in the field of health, may not engage, directly or indirectly, in the performance of the corporate purposes or objects unless: Purposes.

(1) at least one-fourth (¼) of all licentiates of the particular profession, or, in the case of hospital service

HeinOnline -- 1967 vol. I 535 1967

corporations, at least one-fourth (¼) of the whole number of hospitals in the state become members;

(2) membership in the corporation and an opportunity to render professional services upon a uniform basis is available to all licensed members of the particular profession where professional licentiates are involved, and membership in the corporation and an opportunity to render hospital services upon a uniform basis is available to all hospitals approved by or licensed by the state board of health where hospitals are involved;

(3) a certificate has been issued to the corporation by the particular professional board whose licentiates have become members, or, in the case of hospitals by the licensing agency of such hospitals, finding compliance with the foregoing requirements.

Health service corporations.

All health service corporations organized hereunder shall be subject to supervision by the particular professional board or hospital board or agency under which members or hospitals are licensed and they shall at all times be subject to examination by the attorney general on behalf of the state, to ascertain the condition of affairs of any such corporation, and to what extent, if at all, any such corporation, may fail to comply with trusts which it has assumed or may depart from the general purposes for which it is formed, and in case of any such failure or departure the attorney general shall institute, in the name of the state, the proceedings necessary to correct the same; all such medical, hospital or health service corporations heretofore organized and existing under the nonprofit corporation laws of Montana shall be subject to the provisions hereof. Such health service corporations are hereby prohibited from practicing any of the healing arts and also from operating or conducting hospitals or hospital services.

General powers.

Section 5. **General powers.** Each corporation shall have power:

(a) To continue to exist perpetually by its corporate name unless a limited period of duration is stated in its articles of incorporation.

(b) To sue and be sued, complain and defend, in its corporate name.

HeinOnline -- 1967 vol. I 536 1967

(c) To have a corporate seal which may be altered at pleasure, and to use the same by causing it, or a facsimile thereof, to be impressed or affixed or in any other manner reproduced.

(d) To purchase, take, receive, lease, take by gift, devise or bequest, or otherwise acquire, own, hold, improve, use and otherwise deal in and with real or personal property, or any interest therein, wherever situated.

(e) To sell, convey, mortgage, pledge, lease, exchange, transfer and otherwise dispose of all or any part of its property and assets.

(f) To lend money to its employees other than its officers and directors and otherwise assist its employees, officers and directors.

(g) To purchase, take, receive, subscribe for, or otherwise acquire, own, hold, vote, use, employ, sell, mortgage, lend, pledge or otherwise dispose of, and otherwise use and deal in and with shares or other interests in, or obligations of, other domestic or foreign corporations, whether for profit or not for profit, associations, partnerships or individuals, or direct or indirect obligations of the United States, or of any other goverment, state, territory, governmental district or municipality or of any instrumentality thereof.

(h) To make contracts and incur liabilities, borrow money at such rates of interest as the corporation may determine, issue its notes, bonds, and other obligations and secure any of its obligations by mortgage or pledge of all or any of its property, franchises and income.

(i) To lend money for its corporate purposes, invest and reinvest its funds and take and hold real and personal property as security for the payment of funds so loaned or invested.

(j) To conduct its affairs, carry on its operations and have offices and exercise the powers granted by this act in any state, territory, district, or possession of the United States, or in any foreign country.

(k) To elect or appoint officers and agents of the corporation, who may be directors or members, and define their duties and fix their compensation.

HeinOnline -- 1967 vol. I 537 1967

(l) To make and alter by-laws, not inconsistent with its articles of incorporation or with the laws of this state, for the administration and regulation of the affairs of the corporation.

(m) Unless otherwise provided in the articles of incorporation, to make donations for the public welfare or for charitable, religious, scientific or educational purposes.

(n) To indemnify any director or officer or former director or officer of the corporation, or any person who may have served at its request as a director or officer of another corporation in which it owns shares of capital stock or of which it is a creditor, against claims, liabilities, expenses and costs necessarily incurred by him in connection with the defense, compromise or settlement of any action, suit, or proceeding, civil or criminal, in which he is made a party by reason of being or having been such director or officer, except in relation to matters as to which he shall be adjudged in such action, suit or proceeding to be liable for negligence or misconduct in the performance of duty to the corporation; to make any other indemnification that shall be authorized by the articles of incorporation or by any by-law or resolution adopted by the members after notice.

(o) To pay pensions and retirement benefits and establish pension plans, pension trust, insurance plans, and incentive plans for any or all of its directors, officers and employees.

(p) To cease its corporate activities and surrender its corporate franchise.

(q) To have and exercise all powers necessary or convenient to effect any or all of the purposes for which the corporation is organized.

Defense of ultra vires.

Section 6. **Defense of ultra vires.** No act of a corporation and no conveyance or transfer of real or personal property to or by a corporation shall be invalid by reason of the fact that the corporation was without capacity or power to do such act or to make or receive such conveyance or transfer, but such lack of capacity or power may be asserted:

HeinOnline -- 1967 vol. I 538 1967

(a) In a proceeding by a member or a director against the corporation to enjoin the doing or continuation of unauthorized acts, or the transfer of real or personal property by or to the corporation. If the unauthorized acts or transfer sought to be enjoined are being, or are to be, performed pursuant to any contract to which the corporation is a party, the court may, if all of the parties to the contract are parties to the proceeding and if it deems the same to be equitable, set aside and enjoin the performance of such contract, and in so doing may allow to the corporation or the other parties to the contract, as the case may be, compensation for the loss or damage sustained by either of them which may result from the action of the court in setting aside and enjoining the performance of such contract, but anticipated profits to be derived from the performance of the contract shall not be awarded by the court as a loss or damage sustained.

(b) In a proceeding by the corporation, whether acting directly or through a receiver, trustee, or other legal representative, or through members in a representative suit, against the officers or directors of the corporation for exceeding their authority.

(c) In a proceeding by the attorney general, as provided in this act, to dissolve the corporation, or in a proceeding by the attorney general to enjoin the corporation from performing unauthorized acts, or in any other proceeding by the attorney general.

Section 7. **Corporate name.** The corporate name: Corporate name.

(a) Shall not contain any word or phrase which indicates or implies that it is organized for any purpose other than one or more of the purposes contained in its articles of incorporation.

(b) Shall not be the same as, or deceptively similar to, the name of any corporation, whether for profit or not for profit, existing under the laws of this state, or any foreign corporation, whether for profit or not for profit, authorized to transact business or conduct affairs in this state, or a corporate name reserved or registered as permitted by the laws of this state.

(c) Shall be transliterated into letters of the English alphabet, if it is not in English.

HeinOnline -- 1967 vol. I 539 1967

(d) The exclusive right to the use of a corporate name may be reserved by filing in the office of the secretary of state an application to reserve a specified corporate name, executed by the applicant. If the secretary of state finds that such name is available for corporate use, he shall reserve the same for the exclusive use of such applicant for a period of one hundred twenty (120) days.

The right to the exclusive use of a specified corporate name so reserved may be assigned by filing in the office of the secretary of state a notice of such assignment, executed by the person for whom such name was reserved and specifying the name and address of the transferee.

Registered office and registered agent.

Section 8. **Registered office and registered agent.** Each corporation shall have and continuously maintain in this state:

(a) A registered office which may be, but need not be, the same as its principal office.

(b) A registered agent, which agent may be either an individual resident in this state whose business office is identical with such registered office, or a domestic corporation, whether for profit or not for profit, or a foreign corporation, whether for profit or not for profit, authorized to transact business or conduct affairs in this state, having an office identical with such registered office.

Change of registered office or registered agent.

Section 9. **Change of registered office or registered agent.** A corporation may change its registered office or change its registered agent, or both, upon filing in the office of the secretary of state a statement setting forth:

(a) The name of the corporation.

(b) The address of its then registered office.

(c) If the address of its registered office be changed, the address to which the registered office is to be changed.

(d) The name of its then registered agent.

(e) If its registered agent be changed, the name of its successor registered agent.

(f) That the address of its registered office and the address of the office of its registered agent, as changed, will be identical.

HeinOnline -- 1967 vol. I 540 1967

(g) That such change was authorized by resolution duly adopted by its board of directors.

Such statement shall be executed by the corporation by its president or a vice-president and delivered to the secretary of state. If the secretary of state finds that such statement conforms to the provisions of this act, he shall file such statement in his office, and upon such filing, the change of address of the registered office, or the appointment of a new registered agent, or both, as the case may be, shall become effective.

Any registered agent of a corporation may resign as such agent upon filing a written notice thereof, executed in duplicate, with the secretary of state, who shall forthwith mail a copy thereof to the corporation in care of an officer, who is not the resigning registered agent, at the address of such officer as shown by the most recent annual report of the corporation. The appointment of such agent shall terminate upon the expiration of thirty (30) days after receipt of such notice by the secretary of state.

If a registered agent changes his or its business address to another place within the same state, he or it may change such address and the address of the registered office of any corporations of which he or it is registered agent by filing a statement as required above except that it need be signed only by the registered agent and need not be responsive to (e) or (g) and must recite that a copy of the statement has been mailed to each such corporation.

Service of process upon corporation.

Section 10. **Service of process upon corporation.** Service of process upon a corporation shall be effected upon the persons and in the manner provided by the Montana Rules of Civil Procedure.

Members.

Section 11. **Members.** A corporation may have one or more classes of members or may have no members. If the corporation has one or more classes of members, the designation of such class or classes, the manner of election or appointment and the qualifications and rights of the members of each class shall be set forth in the articles of incorporation or the bylaws. If the corporation has no members, that fact shall be set forth in the articles of incorporation or the bylaws. A corporation may issue certificates evidencing membership therein.

HeinOnline -- 1967 vol. I 541 1967

The directors, officers, employees and members of the corporation shall not, as such, be liable on its obligations.

Bylaws.

Section 12. **Bylaws.** The initial bylaws of a corporation shall be adopted by its board of directors. The power to alter, amend or repeal the bylaws or adopt new bylaws shall be vested in the board of directors unless otherwise provided in the articles of incorporation or the bylaws. The bylaws may contain any provisions for the regulation and management of the affairs of a corporation not inconsistent with law or the articles of incorporation.

Meetings of members.

Section 13. **Meetings of members.** Meetings of members may be held at such place. either within or without this state, as may be provided in the bylaws. In the absence of any such provision, all meetings shall be held at the registered office of the corporation in this state.

An annual meeting of the members shall be held at such time as may be provided in the bylaws. Failure to hold the annual meeting at the designated time shall not work a forfeiture or dissolution of the corporation.

Special meetings of the members may be called by the president or by the board of directors. Special meetings of the members may also be called by such other officers or persons or number or proportion of members as may be provided in the articles of incorporation or the bylaws. In the absence of a provision fixing the number or proportion of members entitled to call a meeting, a special meeting of members may be called by members having one-twentieth (1/20) of the votes entitled to be cast at such meeting.

Notice of members' meetings.

Section 14. **Notice of members' meetings.** Unless otherwise provided in the articles of incorporation or the the bylaws ,written notice stating the place, day and hour of the meeting and, in case of a special meeting, the purpose or purposes for which the meeting is called, shall be delivered not less than ten (10) nor more than fifty (50) days before the date of the meeting, either personally or by mail, by or at the direction of the president, or the secretary, or the officers or persons calling the meeting, to each member entitled to vote at such meeting. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail addressed to the

HeinOnline -- 1967 vol. I 542 1967

member at his address as it appears on the records of the corporation, with postage thereon prepaid.

Voting.

Section 15. **Voting**. The right of the members or any class or classes of members to vote may be limited, enlarged or denied to the extent specified in the articles of incorporation or the bylaws. Unless so limited, enlarged or denied, each member, regardless of class, shall be entitled to one vote on each matter submitted to a vote of members.

A member entitled to vote may vote in person or, unless the articles of incorporation or the bylaws otherwise provide, may vote by proxy executed in writing by the member or by his duly authorized attorney-in-fact. No proxy shall be valid after eleven (11) months from the date of its execution unless otherwise provided in the proxy. Where directors or officers are to be elected by members, the bylaws may provide that such elections may be conducted by mail.

The articles of incorporation or the bylaws may provide that in all elections for directors, every member entitled to vote shall have the right to cumulate his vote and to give one candidate a number of votes equal to his vote multiplied by the number of directors to be elected, or by distributing such votes on the same principle among any number of such candidates.

If a corporation has no members or its members have no right to vote, the directors shall have the sole voting power.

Quorum.

Section 16. **Quorum.** (a) The bylaws may provide the number or percentage of members entitled to vote represented in person or by proxy, or the number or percentage of votes represented in person or by proxy, which shall constitute a quorum at a meeting of members. In the absence of any such provision, members holding one-tenth (1/10) of the votes entitled to be cast on the matter to be voted upon represented in person or by proxy shall constitute a quorum. A majority of the votes entitled to be cast on a matter to be voted upon by the members present or represented by proxy at a meeting at which a quorum is present shall be necessary for the adoption thereof unless a greater proportion is required by this act, the articles of incorporation or the bylaws.

HeinOnline -- 1967 vol. I 543 1967

(b) Unless otherwise provided by the articles of incorporation or bylaws, the members present at a duly organized meeting may continue to do business until adjournment, notwithstanding the withdrawal of enough members to leave less than a quorum.

(c) If a meeting cannot be organized because a quorum has not attended, those present may adjourn the meeting from time to time until a quorum is present, when any business may be transacted that may have been transacted at the meeting as originally called.

Board of directors.

Section 17. **Board of directors.** The affairs of a corporation shall be managed by a board of directors. Directors need not be residents of this state or members of the corporation unless the articles of incorporation or the bylaws so require. The articles of incorporation or the bylaws may prescribe other qualifications for directors.

Number and election of directors.

Section 18. **Number and election of directors.** The number of directors of a corporation shall be not less than three (3). Subject to such limitation, the number of directors shall be fixed by the bylaws, except as to the number of the first board of directors which number shall be fixed by the articles of incorporation. The number of directors may be increased or decreased from time to time by amendment to the bylaws, unless the articles of incorporation provide that a change in the number of directors shall be made only by amendment of the articles of incorporation. No decrease in number shall have the effect of shortening the term of any incumbent director. In the absence of a bylaw fixing the number of directors, the number shall be the same as that stated in the articles of incorporation.

The directors constituting the first board of directors shall be named in the articles of incorporation and shall hold office until the first annual election of directors or for such other period as may be specified in the articles of incorporation or the bylaws. Thereafter, directors shall be elected or appointed in the manner and for the terms provided in the articles of incorporation or the bylaws. If a corporation has no members, or its members have no right to vote, the directors shall be elected or appointed by the incumbent directors, or by the dignitary, officer or respesentative body of any organization or society designated in the articles of incorporation or bylaws.

HeinOnline -- 1967 vol. I 544 1967

In the absence of a provision fixing the term of office, the term of office of a director shall be one (1) year.

Directors may be divided into classes and the terms of office of the several classes need not be uniform. Each director shall hold office for the term which he is elected or appointed and until his successor shall have been elected or appointed and qualified.

A director may be removed from office pursuant to any procedure therefor provided in the articles of incorporation.

Vacancies.

Section 19. **Vacancies.** Any vacancy occuring in the board of directors and any directorship to be filled by reason of an increase in the number of directors may be filled by the affirmative vote of a majority of the remaining directors, though less than a quorum of the board of directors, unless the articles of incorporation or the bylaws provide that a vacancy or directorship so created shall be filled in some other manner, in which case such provision shall control.

A director elected or appointed, as the case may be, to fill a vacancy shall be elected or appointed for the unexpired term of his predecessor in office.

Any directorship to be filled by reason of an increase in the number of directors may be filled by the board of directors for a term of office continuing only until the next election of directors.

Quorum of directors.

Section 20. **Quorum of directors.** A majority of the number of directors fixed by the bylaws, or in the absence of a bylaw fixing the number of directors, then of the number stated in the articles of incorporation, shall constitute a quorum for the transaction of business, unless otherwise provided in the articles of incorporation, or the bylaws; but in no event shall a quorum consist of less than one-third (1/3) of the number of directors so fixed or stated. The act of the majority of the directors present at a meeting at which a quorum is present shall be the act of the board of directors, unless the act of a greater number is required by this act, the articles of incorporation or the bylaws.

Committees.

Section 21. **Committees.** If the articles of incorporation or the bylaws so provide, the board of directors, by resolution adopted by a majority of the directors in of-

HeinOnline -- 1967 vol. I 545 1967

fice, may designate and appoint one (1) or more committees each of which shall consist of two (2) or more directors, which committees, to the extent provided in such resolution, in the articles of incorporation or in the bylaws of the corporation, shall have and exercise all the authority of the board of directors, except that no such committee shall have the authority of the board of directors in reference to amending, altering or repealing the bylaws; electing, appointing or removing any member of any such committee or any director or officer of the corporation; amending the articles of incorporation, restating articles of incorporation adopting a plan of merger or adopting a plan of consolidation with another corporation; authorizing the sale, lease, exchange or mortgage of all or substantially all of the property and assets of the corporation; authorizing the voluntary dissolution of the corporation or revoking proceedings therefor; adopting a plan for the distribution of the assets of the corporation; or amending, altering or repealing any resolution of the board of directors which by its terms provides that it shall not be amended, altered or repealed by such committee. The designation and appointment of any such committee and the delegation thereto of authority shall not operate to relieve the board of directors, or any individual director of any responsibility imposed upon it or him by law.

Place and notice of directors' meetings.

Section 22. **Place and notice of directors' meetings.** Meetings of the board of directors, regular or special, may be held either within or without this state, and upon such notice as the bylaws may prescribe. Attendance of a director at any meeting shall constitute a waiver of notice of such meeting except when a director attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted nor the purpose of any regular or special meeting of the board of directors need be specified in the notice or waiver of notice of such meeting.

Officers.

Section 23. **Officers.** The officers of a corporation shall consist of a president, one (1) or more vice- presidents, a secretary, a treasurer and such other officers and assistant officers as may be deemed necessary, each of whom shall be elected or appointed at such time and in such manner and for such terms, not exceeding three (3)

HeinOnline -- 1967 vol. I 546 1967

years, as may be prescribed in the articles of incorporation or the bylaws. In the absence of any such provision, all officers shall be elected or appointed annually by the board of directors. If the bylaws so provide, any two (2) or more offices may be held by the same person, ex- the offices of president and secretary.

The articles of incorporation or the bylaws may provide that any one or more officers of the corporation shall be ex officio members of the board of directors.

The officers of a corporation may be designated by such additional titles as may be provided in the articles of incorporation or the bylaws.

Removal of officers.

Section 24. **Removal of officers.** Any officer or agent may be removed by the persons authorized to elect or appoint such officer or agent whenever in their judgment the best interests of the corporation will be served thereby. The removal of an officer or agent shall be without prejudice to the contract rights, if any, of the officer or agent so removed. Election or appointment of an officer or agent shall not of itself create contract rights.

Books and records.

Section 25. **Books and records.** Each corporation shall keep correct and complete books and records of account and shall keep minutes of the proceedings of its members, board of directors and committees having any of the authority of the board of directors; shall keep at its registered office or principal office in this state a record of the names and addresses of its members entitled to vote. All books and records of a corporation may be inspected by any member, or his agent or attorney, for any proper purpose at any reasonable time.

Shares of stock and dividends prohibited.

Section 26. **Shares of stock and dividends prohibited.** A corporation shall not have or issue shares of stock. No dividend shall be paid and no part of the income or profit of a corporation shall be distributed to its members, directors or officers. A corporation may pay compensation in a reasonable amount to its members, directors, or officers for services rendered, may confer benefits upon its members in conformity with its purposes, and upon dissolution or final liquidation may make distributions to its members as permitted by this act, and no such payment, benefit or distribution shall be deemed to be a dividend or a distribution of income or profit.

HeinOnline -- 1967 vol. I 547 1967

Loans to directors and officers prohibited.

Section 27. **Loans to directors and officers prohibited.** No loans shall be made by a corporation to its directors or officers. Any director or officer who assents to or participates in the making of any such loan shall be liable to the corporation for the amount of such loan until the repayment thereof.

Incorporators.

Section 28. **Incorporators.** One or more persons may incorporate a corporation by signing and delivering articles of incorporation in duplicate to the secretary of state. But no subordinate body shall be incorporated unless such action is approved in writing by the grand, head or national body in accordance with its applicable rules and regulations and such approval, or certified copy thereof, is attached to the articles of incorporation submitted to the secretary of state.

Articles of incorporation.

Section 29. **Articles of incorporation.** The articles of incorporation shall set forth:

(a) The name of the corporation.

(b) The period of duration, which may be perpetual.

(c) The purpose or purposes for which the corporation is organized.

(d) Any provisions, not inconsistent with law, which the incorporators elect to set forth in the articles of incorporation for the regulation of the internal affairs of the corporation, including any provision for distribution of assets on dissolution or final liquidation.

(e) The address of its initial registered office and the name of its initial registered agent at such address.

(f) The number of directors constituting the initial board of directors and the names and addresses of the persons who are to serve as the initial directors.

(g) The name and address of each incorporator.

It shall not be necessary to set forth in the articles of incorporation any of the corporate powers enumerated in this act.

Unless the articles of incorporation provide that a change in the number of directors shall be made only by amendment to the articles of incorporation, a change in the number of directors made by amendment to the by-laws shall be controlling. In all other cases, whenever a

HeinOnline -- 1967 vol. I 548 1967

provision of the articles of incorporation is inconsistent with a bylaw, the provision of the articles of incorporation shall be controlling.

Filing of articles of incorporation.

Section 30. **Filing of articles of incorporation.** Duplicate originals of the articles of incorporation shall be delivered to the secretary of state. If the secretary of state finds that the articles of incorporation conform to law, he shall, when all fees have been paid as in this act prescribed:

(1) Endorse on each of such duplicate originals the word "Filed," and the month, day and year of the filing thereof.

(2) File one of such duplicate originals in his office.

(3) Issue a certificate of incorporation to which he shall affix the other duplicate original.

The certificate of incorporation, together with the duplicate original of the articles of incorporation affixed thereto by the secretary of state, shall be returned to the incorporators or their representative.

Effect of issuance of certificate of incorporation.

Section 31. **Effect of issuance of certificate of incorporation.** Upon the issuance of the certificate of incorporation, the corporate existence shall begin, and such certificate of incorporation shall be conclusive evidence that all conditions precedent required to be performed by the incorporators have been complied with and that the corporation has been incorporated under this act, except as against the state in a proceeding to cancel or revoke the certificate of incorporation or for involuntary dissolution of the corporation.

Organization meetings.

Section 32. **Organization meetings.** After the issuance of the certificate of incorporation, an organization meeting of the board of directors named in the articles of incorporation shall be held, either within or without this state. at the call of a majority of incorporators, for the purpose of adopting bylaws, electing officers and the transaction of such other business as may come before the meeting. The incorporators calling the meeting shall give at least three (3) days' notice thereof by mail to each director so named, which notice shall state the time and place of the meeting.

A first meeting of the members may be held at the call of the directors, or a majority of them, upon at least

HeinOnline -- 1967 vol. I 549 1967

three (3) days' notice, for such purposes as shall be stated in the notice of the meeting.

Right to amend articles of incorporation.

Section 33. **Right to amend articles of incorporation.** A corporation may amend its articles of incorporation from time to time in any and as many respects as may be desired, so long as its articles of incorporation, as amended, contain only such provisions as are lawful under this act.

Procedure to amend articles of incorporation.

Section 34. **Procedure to amend articles of incorporation.** Amendments to the articles of incorporation shall be made in the following manner:

(a) If there are members entitled to vote thereon, the board of directors shall adopt a resolution setting forth the proposed amendment and directing that it be submitted to a vote at a meeting of members entitled to vote thereon, which may be either an annual or a special meeting. Written notice setting forth the proposed amendment or a summary of the changes to be effected thereby shall be given to each member entitled to vote at such meeting within the time and in the manner provided in this act for the giving of notice of meetings of members. The proposed amendment shall be adopted upon receiving at least two-thirds (2/3) of the votes which members present at such meeting or represented by proxy are entitled to cast.

(b) If there are no members, or no members entitled to vote thereon, an amendment shall be adopted at a meeting of the board of directors upon receiving the vote of a majority of the directors in office. Any number of amendments may be submitted and voted upon at any one meeting.

Articles of amendment.

Section 35. **Articles of amendment.** The articles of amendment shall be executed in duplicate by the corporation by its president or a vice-president and by its secretary or an assistant secretary and shall set forth:

(a) The name of the corporation.

(b) The amendment so adopted.

(c) If there are members entitled to vote thereon,

(1) a statement setting forth the date of the meeting of members at which the amendment was adopted, that a quorum was present at such meeting, and that such

HeinOnline -- 1967 vol. I 550 1967

amendment received at least two-thirds (2/3) of the votes which members present at such meeting or represented by proxy were entitled to cast, or

(2) a statement that such amendment was adopted by a consent in writing signed by all members entitled to vote with respect thereto.

(d) If there are no members, or no members entitled to vote thereon, a statement of such fact, the date of the meeting of the board of directors at which the amendment was adopted, and a statement of the fact that such amendment received the vote of a majority of the directors in office.

Effectiveness of amendment.

Section 36. **Effectiveness of amendment.** Duplicate originals of the articles of amendment shall be delivered to the secretary of state. If the secretary of state finds that the articles of amendment conform to law, he shall, when all fees have been paid as in this act prescribed:

(1) Endorse on each of such duplicate originals the word "Filed," and the month, day and year of the filing thereof.

(2) File one of such duplicate originals in his office.

(3) Issue a certificate of amendment to which he shall affix the other duplicate original.

The certificate of amendment, together with the duplicate original of the articles of amendment affixed thereto by the secretary of state, shall be returned to the corporation or its representative.

Upon the issuance of the certificate of amendment by the secretary of state, the amendment shall become effective and the articles of incorporation shall be deemed to be amended accordingly.

No amendment shall affect any existing cause of action in favor of or against such corporation, or any pending action to which such corporatoin shall be a party, or the existing rights of persons other than members; in the event the corporate name shall be changed by amendment, no action brought by or against such corporation under its former name shall abate for that reason.

Restated articles of incorporation.

Section 37. **Restated articles of incorporation.** (1) A corporation may by action taken in the same manner

HeinOnline -- 1967 vol. I 551 1967

as required for amendment of articles of incorporation adopt restated articles of incorporation. The restated articles of incorporation may contain any changes in the articles of incorporation that could be made by amendment regularly adopted. Adoption of restated articles of incorporation containing any such changes shall have the effect of amending the existing articles of incorporation to conform to the restated articles of incorporation, without further action of the board of directors or members. Restated articles of incorporation shall contain a statement that they supersede the theretofore existing articles of incorporation and amendments thereto. Restated articles of incorporation shall contain all the statements required by this act to be included in original articles of incorporation except that:

(a) In lieu of setting forth the address of the initial registered office and the name of the initial registered agent at such address, there shall be set forth the address, including street and number, if any, of the registered office and the name of the registered agent at such address at the time of the adoption of the restated articles of incorporation;

(b) No statement need be made with respect to the names and addresses of directors constituting the initial board of directors or the names and addresses of the incorporators.

(2) Restated articles of incorporation when executed and filed in the manner prescribed in this act for articles of amendment shall supersede the theretofore existing articles of incorporation and amendments thereto. The secretary of state shall upon request certify a copy of the articles of incorporation, or the articles of incorporation as restated, or any amendments to either thereof.

(3) The restated articles of incorporation, when filed, shall be accompanied by a statement, executed in duplicate by the corporation, by its president or a vice-president and by its secretary or an assistant secretary and verified by one of the officers signing such statement, setting forth the following:

(a) The name of the corporation.

(b) The date of the adoption of the restated articles of incorporation by the members, but if there are no mem-

HeinOnline -- 1967 vol. I 552 1967

bers, or no members entitled to vote thereon, that the restated articles were adopted at a meeting of the board of directors upon receiving an affirmative vote of a majority of the directors in office.

(c) That the restated articles correctly set forth the provisions of the articles of incorporation as theretofore amended and that they have been duly adopted as required by law.

Procedure for merger.

Section 38. **Procedure for merger.** Any two (2) or more domestic corporations may merge into one of such corporations pursuant to a plan of merger approved in the manner provided in this act.

Each corporation shall adopt a plan of merger setting forth:

(a) The names of the corporations proposing to merge, and the name of the corporation into which they propose to merge, which is hereinafter designated as the surviving corporation.

(b) the terms and conditions of the proposed merger,

(c) A statement of any changes in the articles of incorporation of the surviving corporation to be effected by such merger.

(d) Such other provisions with respect to the proposed merger as are deemed necessary or desirable.

Procedure for consolidation.

Section 39. **Procedure for consolidation.** Any two (2) or more domestic corporations may consolidate into a new corporation pursuant to a plan of consolidation approved in the manner provided in this act.

Each corporation shall adopt a plan of consolidation setting forth:

(a) The names of the corporations proposing to consolidate, and the name of the new corporation into which they propose to consolidate, which is hereinafter designated as the new corporation.

(b) The terms and conditions of the proposed consolidation.

(c) With respect to the new corporation, all of the statements required to be set forth in articles of incorporation for corporations organized under this act.

HeinOnline -- 1967 vol. I 553 1967

(d) Such other provisions with respect to the proposed consolidation as are deemed necessary or desirable. able.

Approval of merger or consolidation.

Section 40. **Approval of merger or consolidation.** A plan of merger or consolidation shall be adopted in the following manner:

(a) If the members of any merging or consolidating corporation are entitled to vote thereon, the board of directors of such corporation shall adopt a resolution approving the proposed plan and directing that it be submitted to a vote at a meeting of members entitled to vote thereon, which may be either an annual or a spcial meeting. Written notice setting forth the proposed plan or a summary thereof shall be given to each member entitled to vote at such meeting within the time and in the manner provided in this act for the giving of notice of meetings of members. The proposed plan shall be adopted upon receiving at least two-thirds (2/3) of the votes which members present at each such meeting or represented by proxy are entitled to cast.

(b) If any merging or consolidating corporation has no members, or no members entitled to vote thereon, a plan of merger or consolidation shall be adopted at a meeting of the board of directors of such corporation upon receiving the vote of a majority of the directors in office.

After such approval, and at any time prior to the filing of the articles of merger or consolidation, the merger or consolidation may be abandoned pursuant to provisions therefor, if any, set forth in the plan of merger or consolidation.

Articles of merger or consolidation.

Section 41. **Articles of merger or consolidation.** Upon such approval, articles of merger or articles of consolidation shall be executed in duplicate by each corporation by its president or a vice-president and by its secretary or an assistant secretary, and shall set forth:

(a) The plan of merger or the plan of consolidation.

(b) If the members of any merging or consolidating corporation are entitled to vote thereon, then as to each such corporation

(1) a statement setting forth the date of the meeting

HeinOnline -- 1967 vol. I 554 1967

of members at which the plan was adopted, that a quorum was present at such meeting, and that such plan received at least two-thirds (2/3 of the votes which members present at such meeting or represented by proxy were entitled to cast, or

(2) a statement that such amendment was adopted by a consent in writing signed by all members entitled to vote with respect thereto.

(c) If any merging or consolidating corporation has no members, or no members entitled to vote thereon, then as to each such corporation a statement of such fact, the date of the meeting of the board of directors at which the plan was adopted and a statement of the fact that such plan received the vote of a majority of the directors in office.

Duplicate originals of the articles of merger or articles of consolidation shall be delivered to the secretary of state. If the secretary of state finds that such articles conform to law, he shall, when all fees have been paid as in this act prescribed:

(1) Endorse on each of such duplicate originals the word "Filed," and the month, day and year of the filing thereof.

(2) File one of such duplicate originals in his office.

(3) Issue a certificate of merger or a certificate of consolidation to which he shall affix the other duplicate original.

The certificate of merger or certificate of consolidation, together with the duplicate original of the articles of merger or articles of consolidation affixed thereto by the secretary of state, shall be returned to the surviving or new corporation, as the case may be, or its representative.

Effect of merger or consolidation.

Section 42. **Effect of merger or consolidation.** Upon the issuance of the certificate of merger, or the certificate of consolidation by the secretary of state, the merger or consolidation shall be effected. When such merger or consolidation has been effected:

(a) The several corporations, parties to the plan of merger or consolidation, shall be a single corporation,

HeinOnline -- 1967 vol. I 555 1967

which, in the case of a merger, shall be that corporation designated in the plan of merger as the surviving corporation, and, in the case of a consolidation, shall be the new corporation provided for in the plan of consolidation.

(b) The separate existence of all corporations, parties to the plan of merger or consolidation, except the surviving or new corporation, shall cease.

(c) Such surviving or new corporation shall have all the rights, privileges, immunities and powers and shall be subject to all the duties and liabilities of a corporation organized under this act.

(d) Such surviving or new corporation shall thereupon and thereafter possess all the rights, privileges, immunities, and franchises, of a public as well as of a private nature, of each of the merging or consolidating corporations and all property, real, personal and mixed, and all debts due on whatever account, and all other choses in action, and all and every other interest, of or belonging to or due to each of the corporations so merged or consolidated, shall be taken and deemed to be transferred to and vested in such single corporation without further act or deed; and the title to any real estate, or any interest therein, vested in any of such corporations shall not revert or be in any way impaired by reason of such merger or consolidation.

(e) Such surviving or new corporation shall thenceforth be responsible and liable for all the liabilities and obligations of each of the corporations so merged or consolidated; and any claim existing or action or proceeding pending by or against any of such corporations may be prosecuted as if such merger or consolidation had not taken place, or such surviving or new corporation may be substituted in its place. Neither the rights of creditors nor any liens upon the property of any such corporation shall be impaired by such merger or consolidation.

(f) In the case of a merger, the articles of incorporation of the surviving corporation shall be deemed to be amended to the extent, if any, that changes in its articles of incorporation are stated in the plan of merger; in the case of a consolidation, the statements set forth in the articles of consolidation and which are required or permitted to be set forth in the articles of incorporation of

HeinOnline -- 1967 vol. I 556 1967

corporations organized under this act shall be deemed to be the articles of incorporation of the new corporation.

Merger or consolidation of domestic and foreign corporations.

Section 43. **Merger or consolidation of domestic and foreign corporations.** One or more foreign corporations and one or more domestic corporations may be merged or consolidated in the following manner, if such merger or consolidation is permitted by the laws of the state under which each such foreign corporation is organized:

(a) Each domestic corporation shall comply with the provisions of this act with respect to the merger or consolidation, as the case may be, of domestic corporations, and each foreign corporation shall comply with the applicable provisions of the laws of the state under which it is organized.

(b) If the surviving or new corporation, as the case may be, is to be governed by the laws of any state other than this state, it shall comply with the provisions of this act with respect to foreign corporations if it is to conduct affairs in this state, and in every case it shall file with the secretary of state of this state:

(1) An agreement that it may be served with process in this state in any proceeding for the enforcement of any obligation of any domestic corporation which is a party to such merger or consolidation; and

(2) An irrevocable appointment of the secretary of state of this state as its agent to accept service of process in any such proceeding.

The effect of such merger or consolidation shall be the same as in the case of the merger or consolidation of domestic corporations, if the surviving or new corporation is to be governed by the laws of this state. If the surviving or new corporation is to be governed by the laws of any state other than this state, the effect of such merger or consolidation shall be the same as in the case of the merger or consolidation of domestic corporations except insofar as the laws of the other state provide otherwise.

After approval by the members or, if there be no members entitled to vote thereon, by the board of directors, and at any time prior to the filing of the articles of merger or consolidation, the merger or consolidation may

HeinOnline -- 1967 vol. I 557 1967

be abandoned pursuant to provisions therefor, if any, set forth in the plan of merger or consolidation.

Sale, lease, exchange, or mortgage of assets.

Section 44. **Sale, lease, exchange, or mortgage of assets.** A sale, lease, exchange, mortgage, pledge or other disposition of all, or substantially all, the property and assets of a corporation may be made upon such terms and conditions and for such consideration, which may consist in whole or in part of money or property, real or personal, including shares of any corporation for profit, domestic or foreign, as may be authorized in the following manner:

(a) If there are members entitled to vote thereon, the board of directors shall adopt a resolution recommending such sale, lease, exchange, mortgage, pledge or other disposition and directing that it be submitted to a vote at a meeting of members entitled to vote thereon, which may be either an annual or a special meeting. Written notice stating that the purpose, or one of the purposes, of such meeting is to consider the sale, lease, exchange, mortgage, pledge or other disposition of all, or substantially all, the property and assets of the corporation shall be given to each member entitled to vote at such meeting, within the time and in the manner provided by this act for the giving of notice of meetings of members. At such meeting the members may authorize such sale, lease, exchange, mortgage, pledge or other disposition and may fix, or may authorize the board of directors to fix, any or all of the terms and conditions thereof and the consideration to be received by the corporation therefor. Such authorization shall require at least two-thirds (2/3) of the votes which members present at such meeting or represented by proxy are entitled to cast. After such authorization by a vote of members, the board of directors, nevertheless, in its discretion, may abandon such sale, lease, exchange, mortgage, pledge or other disposition of assets, subject to the rights of third parties under any contracts relating thereto, without further action or approval by members.

(b) If there are no members, or no members entitled to vote thereon, a sale, lease, exchange, mortgage, pledge or other disposition of all, or substantially all, the property and assets of a corporation shall be authorized upon receiving the vote of a majority of the directors in office.

HeinOnline -- 1967 vol. I 558 1967

Section 45. **Voluntary dissolution.** A corporation may dissolve and wind up its affairs in the following manner: Voluntary dissolution.

(a) If there are members entitled to vote thereon, the board of directors shall adopt a resolution recommending that the corporation be dissolved, and directing that the question of such dissolution be submitted to a vote at a meeting of members entitled to vote thereon, which may be either an annual or a special meeting. Written notice stating that the purpose or one of the purposes of such meeting is to consider the advisability of dissolving the corporation, shall be given to each member entitled to vote at such meeting, within the time and in the manner provided in this act for the giving of notice of meetings of members. A resolution to dissolve the corporation shall be adopted upon receiving at least two-thirds (2/3) of the votes which members present at such meeting or represented by proxy are entitled to cast,

(b) If there are no members, or nor members entitled to vote thereon, the dissolution of the corporation shall be authorized at a meeting of the board of directors upon the adoption of a resolution to dissolve by the vote of a majority of the directors in office.

Upon the adoption of such resolution by the members, or by the board of directors if there are no members or no members entitled to vote thereon, the corporation shall cease to conduct its affairs except insofar as may be necessary for the conclusion thereof, shall immediately cause a notice of the proposed dissolution to be mailed to each known creditor of the corporation, and shall proceed to collect its assets and apply and distribute them as provided in this act.

Section 46. **Distribution of assets.** The assets of a corporation in the process of dissolution shall be applied and distributed as follows: Distribution of assets.

(a) All liabilities and obligations of the corporation shall be paid and discharged, or adequate provision shall be made therefor;

(b) Assets held by the corporation upon condition requiring return, transfer or conveyance, which condition occurs by reason of the dissolution, shall be returned, transferred or conveyed in accordance with such requirements;

HeinOnline -- 1967 vol. I 559 1967

(c) Assets received and held by the corporation subject to limitations permitting their use only for charitable, religious, eleemosynary, benevolent, educational or similar purposes, but not held upon a condition requiring return, transfer or conveyance by reason of the dissolution, shall be transferred or conveyed to one or more domestic or foreign corporations, societies or organizations engaged in activities substantially similar to those of the dissolving corporation, pursuant to a plan of distribution adopted as provided in this act;

(d) Other assets, if any, shall be distributed in accordance with the provisions of the articles of incorporation or the bylaws to the extent that the articles of incorporation or bylaws determine the distributive rights of members, or any class or classes of members, or provide for distribution to others;

(e) Any remaining assets may be distributed to such persons, societies, organizations or domestic or foreign corporations, whether for profit or nonprofit, as may be specified in a plan of distribution adopted as provided in this act.

Plan of distribution.

Section 47. **Plan of distribution.** A plan providing for the distribution of assets, not inconsistent with the provisions of this act, may be adopted by a corporation in the process of dissolution and shall be adopted by a corporation for the purpose of authorizing any transfer or conveyance of assets for which this act requires a plan of distribution, in the following manner:

(a) If there are members entitled to vote thereon, the board of directors shall adopt a resolution recommending a plan of distribution and directing the submission thereof to a vote at a meeting of members entitled to vote thereon, which may be either an annual or a special meeting. Written notice setting forth the proposed plan of distribution or a summary thereof shall be given to each member entitled to vote at such meeting, within the time and in the manner provided in this act for the giving of notice of meetings of members. Such plan of distribution shall be adopted upon receiving at least two-thirds (2/3) of the votes which members present at such meeting or represented by proxy are entitled to cast.

(b) If there are no members, or no members entitled to vote thereon, a plan of distribution shall be adopted

HeinOnline -- 1967 vol. I 560 1967

at a meeting of the board of directors upon receiving a vote of a majority of the directors in office.

Revocation of voluntary dissolution proceedings.

Section 48. **Revocation of voluntary dissolution proceedings.** A corporation may, at any time prior to the issuance of a certificate of dissolution by the secretary of state, revoke the action theretofore taken to dissolve the corporation, in the following manner:

(a) If there are members entitled to vote thereon, the board of directors shall adopt a resolution recommending that the voluntary dissolution proceedings be revoked, and directing that the question of such revocation be submitted to a vote at a meeting of members entitled to vote thereon, which may be either an annual or a special meeting. Written notice stating that the purpose, or one of the purposes, of such meeting is to consider the advisability of revoking the voluntary dissolution proceedings, shall be given to each member entitled to vote at such meeting, within the time and in the manner provided in this act for the giving of notice of meetings of members. A resolution to revoke the voluntary dissolution proceedings shall be adopted upon receiving at least two-thirds (2/3) of the votes which members present at such meeting or represented by proxy are entitled to cast.

(b) If there are no members, or no members entitled to vote thereon, a resolution to revoke the voluntary dissolution proceedings shall be adopted at a meeting of the board of directors upon receiving the vote of a majority of the directors in office.

Upon the adoption of such resolution by the members, or by the board of directors where there are no members or no members entitled to vote thereon, the corporation may thereupon again conduct its affairs.

Articles of dissolution.

Section 49. **Articles of dissolution.** If voluntary dissolution proceedings have not been revoked, then when all debts, liabilities and obligations of the corporation shall have been paid and discharged, or adequate provision shall have been made therefor, and all of the remaining property and assets of the corporation shall have been transferred, conveyed or distributed in accordance with the provisions of this act, articles of dissolution shall be executed in duplicate by the corporation by its president or a vice-president, and by its secretary or an assistant secretary, which statement shall set forth:

HeinOnline -- 1967 vol. I 561 1967

(a) The name of the corporation.

(b) If there are members entitled to vote thereon,

(1) a statement setting forth the date of the meeting of members at which the resolution to dissolve was adopted, that a quorum was present at such meeting, and that such resolution received at least two-thirds (⅔) of the votes which members present at such meeting or represented by proxy were entitled to cast, or

(2) a statement that such resolution was adopted by a consent in writing signed by all members entitled to vote with respect thereto.

(c) If there are no members, or no members entitled to vote thereon, a statement of such fact, the date of the meeting of the board of directors at which the resolution to dissolve was adopted and a statement of the fact that such resolution received the vote of a majority of the directors in office.

(d) That all debts, obligations, and liabilities of the corporation have been paid and discharged or that adequate provision has been made therefor.

(e) A copy of the plan of distribution, if any, as adopted by the corporation, or a statement that no plan was so adopted.

(f) That all the remaining property and assets of the corporation have been transferred, conveyed or distributed in accordance with the provisions of this act.

(g) That there are no suits pending against the corporation in any court, or that adequate provision has been made for the satisfaction of any judgment, order or decree which may be entered against it in any pending suit.

Filing of articles of dissolution.

Section 50. **Filing of articles of dissolution.** Duplicate originals of such articles of dissolution shall be delivered to the secretary of state. If the secretary of state finds that such articles of dissolution conform to law, he shall, when all fees have been paid as in this act prescribed:

(1) Endorse on each of such duplicate originals the word "Filed," and the month, day and year of the filing thereof.

HeinOnline -- 1967 vol. I 562 1967

(2) File one of such duplicate originals in his office.

(3) Issue a certificate of dissolution to which he shall affix the other duplicate original.

The certificate of dissolution, together with the duplicate original of the articles of dissolution affixed thereto by the secretary of state, shall be returned to the representative of the dissolved corporation. Upon the issuance of such certificate of dissolution the existence of the corporation shall cease, except for the purpose of suits, other proceedings and appropriate corporate action by members, directors and officers as provided in this act.

Involuntary dissolution.

Section 51. **Involuntary dissolution.** A corporation may be dissolved involuntarily by a decree of the district court of Lewis and Clark county in an action filed by the attorney general when it is established that:

(a) The corporation has failed to file its annual report within the time required by this act; or

(b) The corporation procured its articles of incorporation through fraud; or

(c) The corporation has continued to exceed or abuse the authority conferred upon it by law; or

(d) The corporation has failed for ninety (90) days to appoint and maintain a registered agent in this state; or

(e) The corporation has failed for ninety (90) days after change of its registered agent to file in the office of the secretary of state a statement of such change.

Notification of attorney general.

Section 52. **Notification to attorney general.** The secretary of state, on or before the last day of December of each year, shall certify to the attorney general the names of all corporations which have failed to file their annual reports in accordance with the provisions of this act. He shall also certify, from time to time, the names of all corporations which have given other cause for dissolution as provided in this act, together with the facts pertinent thereto. Whenever the secretary of state shall certify the name of a corporation to the attorney general as having given any cause for dissolution, the secretary of state shall concurrently mail to the corporation at its registered office a notice that such certification has been made. Upon the receipt of such certification, the attorney

HeinOnline -- 1967 vol. I 563 1967

general shall file an action in the name of the state against such corporation for its dissolution. Every such certificate from the secretary of state to the attorney general pertaining to the failure of a corporation to file an annual report shall be taken and received in all courts as prima facie evidence of the facts therein stated. If, before action is filed, the corporation shall file its annual report, or shall appoint or maintain a registered agent as provided in this act, or shall file with the secretary of state the required statement of change of registered agent, such fact shall be forthwith certified by the secretary of state to the attorney general and he shall not file an action against such corporation for such cause. If, after action is filed, the corporation shall file its annual report, or shall appoint or maintain a registered agent as provided in this act, or shall file with the secretary of state the required statement of change of registered agent, and shall pay the costs of such action, the action for such cause shall abate.

Venue and process.

Section 53. **Venue and process.** Every action for the involuntary dissolution of a corporation shall be commenced by the attorney general either in the district court of the county in which the registered office of the corporation is situated, or, if there is no registered office, then in the district court of Lewis and Clark county. Summons shall issue and be served as in the manner provided by the Montana rules of civil procedure. If process is returned not found, the attorney general shall cause publication to be made as in other civil cases in some newspaper published in the county where the registered office of the corporation is situated, containing a notice of the pendency of such action, the title of the court, the title of the action, and the date on or after which default may be entered. The attorney general may include in one notice the names of any number of corporations against which actions are then pending in the same court. The attorney general shall cause a copy of such notice to be mailed to the corporation at its registered office within ten (10) days after the first publication thereof. The certificate of the attorney general of the mailing of such notice shall be prima facie evidence thereof. Such notice shall be published at least once each week for two (2) successive weeks, and the first publication thereof may begin at any time after the summons has been returned. Unless a corporation shall have been

HeinOnline -- 1967 vol. I 564 1967

served with summons, no default shall be taken against it earlier than thirty (30) days after the first publication of such notice.

Jurisdiction of court to liquidate assets and affairs of corporation.

Section 54. **Jurisdiction of court to liquidate assets and affairs of corporations.** Courts of equity shall have full power to liquidate the assets and affairs of a corporation:

(a) In an action by a member or director when it is made to appear:

(1) That the directors are deadlocked in the management of the corporate affairs and that irreparable injury to the corporation is being suffered or is threatened by reason thereof, and either that the members are unable to break the deadlock or there are no members having voting rights; or

(2) That the acts of the directors or those in control of the corporation are illegal, oppressive or fraudulent; or

(3) That the members entitled to vote in the election of directors are deadlocked in voting power and have failed for at least two (2) years to elect successors to directors whose terms have expired or would have expired upon the election of their successors;

(4) That the corporate assets are being misapplied or wasted; or

(5) That the corporation is unable to carry out its purposes.

(b) In an action by a creditor:

(1) When the claim of the creditor has been reduced to judgment and an execution thereon has been returned unsatisfied and it is established that the corporation is insolvent; or

(2) When the corporation has admitted in writing that the claim of the creditor is due and owing and it is established that the corporation is insolvent.

(c) Upon application by a corporation to have its dissolution continued under the supervision of the court.

(d) When an action has been filed by the attorney general to dissolve a corporation and it is established

HeinOnline -- 1967 vol. I 565 1967

that liquidation of its affairs should precede the entry of a decree of dissolution.

Proceedings under this section shall be brought in the district court in which the registered office or the principal office of the corporation is situated.

It shall not be necessary to make directors or members parties to any such action or proceedings unless relief is sought against them personally.

Procedure in liquidation of corporation by court.

Section 55. **Procedure in liquidation of corporation by court.** In proceedings to liquidate the assets and affairs of a corporation, the court shall have the power to issue injunctions, to appoint a receiver or receivers pendente lite, with such powers and duties as the court, from time to time, may direct, and to take such other proceedings as may be requisite to preserve the corporate assets wherever situated, and carry on the affairs of the corporation until a full hearing can be had.

After a hearing had upon such notice as the court may direct to be given to all parties to the proceedings and to any other parties in interest designated by the court, the court may appoint a liquidating receiver or receivers with authority to collect the assets of the corporation. Such liquidating receiver or receivers shall have authority, subject to the order of the court, to sell, convey and dispose of all or any part of the assets of the corporation wherever situated, either at public or private sale. The order appointing such liquidating receiver or receivers shall state their powers and duties. Such powers and duties may be increased or diminished at any time during the proceedings.

The assets of the corporation or the proceeds resulting from a sale, conveyance, or other disposition thereof shall be applied and distributed as follows:

(a) All costs and expenses of the court proceedings and all liabilities and obligations of the corporation shall be paid, satisfied and discharged, or adequate provision shall be made therefor;

(b) Assets held by the corporation upon condition requiring return, transfer or conveyance, which condition occurs by reason of the dissolution or liquidation, shall be returned, transferred or conveyed in accordance with such requirement;

HeinOnline -- 1967 vol. I 566 1967

(c) Assets received and held by the corporation subject to limitations permitting their use only for charitable, religious, eleemosynary, benevolent, educational or similar purposes, but not held upon a condition requiring return, transfer or conveyance by reason of the dissolution or liquidation, shall be transferred or conveyed to one or more domestic or foreign corporations, societies or organizations engaged in activities substantially similar to those of the dissolving or liquidating corporation as the court may direct;

(d) Other assets, if any, shall be distributed in accordance with the provisions of the articles of incorporation or the bylaws to the extent that the articles of incorporation or bylaws determine the distributive right of members, or any class or classes of members, or provide for distribution to others;

(e) Any remaining assets may be distributed to such persons, societies, organizations or domestic or foreign corporations, whether for profit or not for profit, specified in the plan of distribution adopted as provided in this act, or where no plan of distribution has been adopted, as the court may direct.

The court shall have power to allow, from time to time, as expenses of the liquidation compensation to the receiver or receivers and to attorneys in the proceeding, and to direct the payment thereof out of the assets of the corporation or the proceeds of any sale or disposition of such assets.

A receiver of a corporation appointed under the provisions of this section shall have authority to sue and defend in all courts in his own name as receiver of such corporation. The court appointing such receiver shall have exclusive jurisdiction of the corporation and its property, wherever situated.

Qualification of receivers.

Section 56. **Qualification of receivers.** A receiver shall in all cases be a citizen of the United States or a corporation for profit authorized to act as receiver, which corporation may be a domestic corporation or a foreign corporation authorized to transact business in this state, and shall in all cases give such bond as the court may direct with such sureties as the court may require.

Filing of claims in liquidation proceedings.

Section 57. **Filing of claims in liquidation proceedings.** In proceedings to liquidate the assets and affairs

HeinOnline -- 1967 vol. I 567 1967

of a corporation, the court may require all creditors of the corporation to file with the clerk of the court or with the receiver, in such form as the court may prescribe, proofs under oath of their respective claims. If the court requires the filing of claims it shall fix a date, which shall be not less than four (4) months from the date of the order, as the last day for the filing of claims, and shall prescribe the notice that shall be given to creditors and claimants of the date so fixed. Prior to the date so fixed, the court may extend the time for the filing of claims. Creditors and claimants failing to file proofs of claim on or before the date so fixed may be barred, by order of court, from participating in the distribution of the assets of the corporation.

Discontinuance of liquidation proceedings.

Section 58. **Discontinuance of liquidation proceedings.** The liquidation of the assets and affairs of a corporation may be discontinued at any time during the liquidation proceedings when it is established that cause for liquidation no longer exists. In such event the court shall dismiss the proceedings and direct the receiver to redeliver to the corporation all its remaining property and assets.

Decree of involuntary dissolution.

Section 59. **Decree of involuntary dissolution.** In proceedings to liquidate the assets and affairs of a corporation, when the costs and expenses of such proceedings and all debts, obligations, and liabilities of the corporation shall have been paid and discharged and all of its remaining property and assets distributed in accordance with the provisions of this act, or in case its property and assets are not sufficient to satisfy and discharge such costs, expenses, debts, and obligations, and all the property and assets have been applied so far as they will go to their payment, the court shall enter a decree dissolving the corporation, whereupon the existence of the corporation shall cease.

Filing of decree of dissolution.

Section 60. **Filing of decree of dissolution.** In case the court shall enter a decree dissolving a corporation, it shall be the duty of the clerk of such court to cause a certified copy of the decree to be filed with the secretary of state; no fee shall be charged by the secretary of state for the filing thereof.

Deposits with state treasurer.

Section 61. **Deposits with state treasurer.** Upon the voluntary or involuntary dissolution of a corporation, the portion of the assets distributable to any person who

HeinOnline -- 1967 vol. I 568 1967

is unknown or cannot be found, or who is under disability and there is no person legally competent to receive such distributive portion, shall be reduced to cash and deposited with the state treasurer and shall be paid over to such person or to his legal representative upon proof satisfactory to the state treasurer of his right thereto, or shall be disposed of by the state treasurer in the manner provided by law.

Survival of remedy after dissolution.

Section 62. **Survival of remedy after dissolution.** The dissolution of a corporation either

(1) by the issuance of a certificate of dissolution by the secretary of state, or

(2) by a decree of court when the court has not liquidated the assets and affairs of the corporation as provided in this act, or

(3) by expiration of its period of duration, shall not take away or impair any remedy available to or against such corporation, its directors, officers, or members, for any right or claim existing, or any liability incurred, prior to such dissolution if action or other proceeding thereon is commenced within five (5) years after the date of such dissolution. Any such action or proceeding by or against the corporation may be prosecuted or defended by the corporation in its corporate name. The members, directors and officers shall have power to take such corporate or other action as shall be appropriate to protect such remedy, right or claim. If such corporation was dissolved by the expiration of its period of duration, such corporation may amend its articles of incorporation at any time during such period of five (5) years so as to extend its period of duration.

Admission of foreign corporation.

Section 63. **Admission of foreign corporation.** No foreign corporation shall have the right to conduct affairs in this state until it shall have procured a certificate of authority so to do from the secretary of state. No foreign corporation shall be entitled to procure a certificate of authority under this act to conduct in this state any affairs which a corporation organized under this act is prohibited from conducting. A foreign corporation shall not be denied a certificate of authority by reason of the fact that the laws of the state or country under which such corporation is organized governing its organization and internal affairs differ from the laws of this state,

HeinOnline -- 1967 vol. I 569 1967

and nothing in this act contained shall be construed to authorize this state to regulate the organization or the internal affairs of such corporation.

Without excluding other activities which may not constitute conducting affairs in this state, a foreign corporation shall not be considered to be conducting affairs in this state, for the purposes of this act, by reason of carrying on in this state any one or more of the following activities:

(a) Maintaining or defending any action or suit or any administrative or arbitration proceeding, or effecting the settlement thereof or the settlement of claims or disputes.

(b) Holding meetings of its directors or members or carrying on other activities concerning its internal affairs.

(c) Maintaining bank accounts.

(d) Creating evidences of debt, mortgages or liens on real or personal property.

(e) Securing or collecting debts due to it or enforcing any rights in property securing the same.

(f) Conducting its affairs in interstate commerce.

(g) Granting funds.

(h) Distributing information to its members.

(i) Conducting an isolated transaction completed within a period of thirty (30) days and not in the course of a number of repeated transactions of like nature.

Powers of foreign corporation.

Section 64. **Powers of foreign corporation.** A foreign corporation which shall have received a certificate of authority under this act shall, until a certificate of revocation or of withdrawal shall have been issued as provided in this act, enjoy the same, but no greater, rights and privileges as a domestic corporation organized for the purposes set forth in the application pursuant to which such certificate of authorization is issued and except as in this act otherwise provided, shall be subject to the same duties, restrictions, penalties and liabilities now or hereafter imposed upon a domestic corporation of like character.

HeinOnline -- 1967 vol. I 570 1967

Corporate name of foreign corporation.

Section 65. **Corporate name of foreign corporation.** No certificate of authority shall be issued to a foreign corporation unless the corporate name of such corporation:

(a) Shall not contain any word or phrase which indicates or implies that it is organized for any purpose other than one or more of the purposes contained in its articles of incorporation.

(b) Shall not be the same as, or deceptively similar to, the name of any corporation, whether for profit or not for profit, existing under the laws of this state, or any foreign corporation, whether for profit or not for profit, authorized to transact business or conduct affairs in this state, or a corporate name reserved or registered as permitted by the laws of this state.

(c) Shall be transliterated into letters of the English alphabet, if it is not in English.

Change of name by foreign corporation.

Section 66. **Change of name by foreign corporation.** Whenever a foreign corporation which is authorized to conduct affairs in this state shall change its name to one under which a certificate of authority would not be granted to it on application therefor, the certificate of authority of such corporation shall be suspended and it shall not thereafter conduct any affairs in this state until it has changed its name to a name which is available to it under the laws of this state.

Application for certificate of authority.

Section 67. **Application for certificate of authority.** A foreign corporation, in order to procure a certificate of authority to conduct affairs in this state, shall make application therefor to the secretary of state, which application shall set forth:

(a) The name of the corporation and the state or country under the laws of which it is incorporated.

(b) The date of incorporation and the period of duration of the corporation.

(c) The address of the principal office of the corporation in the state or country under the laws of which it is incorporated.

(d) The address of the proposed registered office of the corporation in this state, and the name of its proposed registered agent in this state at such address.

HeinOnline -- 1967 vol. I 571 1967

(e) The purpose or purposes of the corporation which it proposes to pursue in conducting its affairs in this state.

(f) The names and respective addresses of the directors and officers of the corporation.

(g) Such additional information as may be necessary or appropriate in order to enable the secretary of state to determine whether such corporation is entitled to a certificate of authority to conduct affairs in this state.

Such application shall be made on forms prescribed and furnished by the secretary of state and shall be executed in duplicate by the corporation by its president or a vice-president and by its secretary or an assistant secretary.

Filing of application for certificate of authority.

Section 68. **Filing of application for certificate of authority.** Duplicate originals of the application of the corporation for a certificate of authority shall be delivered to the secretary of state, together with a copy of its articles of incorporation and all amendments thereto, duly certified by the proper officer of the state or country under the laws of which it is incorporated.

If the secretary of state finds that such application conforms to law, he shall, when all fees have been paid as in this act prescribed:

(1) Endorse on each of such documents the word "Filed," and the month, day and year of the filing thereof.

(2) File in his office one of such duplicate originals of the application and the copy of the articles of incorporation and amendments thereto.

(3) Issue a certificate of authority to conduct affairs in this state to which he shall affix the other duplicate original application.

The certificate of authority, together with the duplicate original of the application affixed thereto by the secretary of state, shall be returned to the corporation or its representative.

Effect of certificate of authority.

Section 69. **Effect of certificate of authority.** Upon the issuance of a certificate of authority by the secretary

HeinOnline -- 1967 vol. I 572 1967

of state, the corporation shall be authorized to conduct affairs in this state for those purposes set forth in its application, subject, however, to the right of this state to suspend or to revoke such authority as provided in this act.

Registered office and registered agent of foreign corporation.

Section 70. **Registered office and registered agent of foreign corporation.** Each foreign corporation authorized to conduct affairs in this state shall have and continuously maintain in this state:

(a) A registered office which may be, but need not be, the same as its principal office.

(b) A registered agent, which agent may be either an individual resident in this state whose business office is identical with such registered office, or a domestic corporation, whether for profit or not for profit, or a foreign corporation, whether for profit or not for profit, authorized to transact business or conduct affairs in this state, having an office identical with such registered office.

Change of registered office or registered agent of foreign corporation.

Section 71. **Change of registered office or registered agent of foreign corporation.** A foreign corporation authorized to conduct affairs in this state may change its registered office or change its registered agent, or both, upon filing in the office of the secretary of state a statement setting forth:

(a) The name of the corporation.

(b) The address of its then registered office.

(c) If the address of its registered office be changed, the address to which the registered office is to be changed.

(d) The name of its registered agent.

(e) If its registered agent be changed, the name of its successor registered agent.

(f) That the address of its registered office and the address of the office of its registered agent, as changed, will be identical.

(g) That such change was authorized by resolution duly adopted by its board of directors.

HeinOnline -- 1967 vol. I 573 1967

Such statement shall be executed by the corporation by its president or a vice-president and delivered to the secretary of state. If the secretary of state finds that such statement conforms to the provisions of this act, he shall file such statement in his office, and upon such filing the change of address of the registered office, or the appointment of a new registered agent, or both, as the case may be, shall become effective.

Any registered agent in this state appointed by a foreign corporation may resign as such agent upon filing a written notice thereof, executed in duplicate, with the secretary of state who shall forthwith mail a copy thereof to the foreign corporation at its principal office in the state or country under the laws of which it is incorporated as shown by its most recent annual report. The appointment of such agent shall terminate upon the expiration of thirty (30) days after receipt of such notice by the secretary of state.

If a registered agent changes his or its business address to another place within the same state, he or it may change such address and the address of the registered office of any corporations of which he or it is registered agent by filing a statement as required above except that it need be signed only by the registered agent and need not be responsive to (e) or (g) and must recite that a copy of the statement has been mailed to each such corporation.

Service of process on foreign corporation.

Section 72. **Service of process on foreign corporation.** Service of process upon a foreign corporation shall be effected upon the persons and in the manner provided by the Montana Rules of Civil Procedure.

Amendment to articles of incorporation of foreign corporation.

Section 73. **Amendment to articles of incorporation of foreign corporation.** Whenever the articles of incorporation of a foreign corporation authorized to conduct affairs in this state are amended, such foreign corporation shall, within sixty (60) days after such amendment becomes effective, file in the office of the secretary of state a copy of such amendment duly certified by the proper officer of the state or country under the laws of which it is incorporated but the filing thereof shall not of itself enlarge or alter the purpose or purposes which such corporation is authorized to pursue in conducting its affairs in this state, nor authorize such corporation to

HeinOnline -- 1967 vol. I 574 1967

conduct affairs in this state under any other name than the name set forth in its certificate of authority.

Merger of foreign corporation authorized to conduct affairs in this state.

Section 74. **Merger of foreign corporation authorized to conduct affairs in this state.** Whenever a foreign corporation authorized to conduct affairs in this state shall be a party to a statutory merger permitted by the laws of the state or country under the laws of which it is incorporated, and such corporation shall be the surviving corporation, it shall, within sixty (60) days after such merger becomes effective, file with the secretary of state a copy of the articles of merger duly certified by the proper officer of the state or country under the laws of which such statutory merger was effected and it shall not be necessary for such corporation to procure either a new or amended certificate of authority to conduct affairs in this state unless the name of such corporation be changed thereby or unless the corporation desires to pursue in this state other or additional purposes than those which it is then authorized to pursue in this state.

Amended certificate of authority.

Section 75. **Amended certificate of authority.** A foreign corporation authorized to conduct affairs in this state shall procure an amended certificate of authority in the event it changes its corporate name, or desires to pursue in this state other or additional purposes than those set forth in its prior application for a certificate of authority, by making application therefor to the secretary of state.

The requirements in respect to the form and contents of such application, the manner of its execution, the filing of duplicate originals thereof with the secretary of state, the issuance of an amended certificate of authority and the effect thereof, shall be the same as in the case of an original application for a certificate of authority.

Withdrawal of foreign corporation.

Section 76. **Withdrawal of foreign corporation.** A foreign corporation authorized to conduct affairs in this state may withdraw from this state upon procuring from the secretary of state a certificate of withdrawal. In order to procure such certificate of withdrawal, such foreign corporation shall deliver to the secretary of state an application for withdrawal, which shall set forth:

(a) The name of the corporation and the state or country under the laws of which it is incorporated.

HeinOnline -- 1967 vol. I 575 1967

(b) That the corporation is not conducting affairs in this state.

(c) That the corporation surrenders its authority to conduct affairs in this state.

(d) That the corporation revokes the authority of its registered agent in this state to accept service of process and consents that service of process in any action, suit or proceeding based upon any cause of action arising in this state during the time the corporation was authorized to conduct affairs in this state may thereafter be made on such corporation by service thereof on the secretary of state.

(e) A post-office address to which the secretary of state may mail a copy of any process against the corporation that may be served on him.

The application for withdrawal shall be made on forms prescribed by the secretary of state and shall be executed by the corporation by its president or a vice-president and by its secretary or an assistant secretary, or, if the corporation is in the hands of a receiver or trustee, shall be executed on behalf of the corporation by such receiver or trustee.

Filing of application for withdrawal.

Section 77. **Filing of application for withdrawal.** Duplicate originals of such application for withdrawal shall be delivered to the secretary of state. If the secretary of state finds that such application conforms to the provisions of this act, he shall, when all fees have been paid as in this act prescribed:

(1) Endorse on each of such duplicate originals the word "Filed," and the month, day and year of the filing thereof.

(2) File one of such duplicate originals in his office.

(3) Issue a certificate of withdrawal to which he shall affix the other duplicate original.

The certificate of withdrawal, together with the duplicate original of the application for withdrawal affixed thereto by the secretary of state, shall be returned to the corporation or its representative. Upon the issuance of such certificate of withdrawal, the authority of the corporation to conduct affairs in this state shall cease.

HeinOnline -- 1967 vol. I 576 1967

Section 78. **Revocation of certificate of authority.** The certificate of authority of a foreign corporation to conduct affairs in this state may be revoked by the secretary of state upon the conditions prescribed in this section when:

Revocation of certificate of authority.

(a) The corporation has failed to file its annual report within the time required by this act, or has failed to pay any fees or penalties prescribed by this act when they have become due and payable; or

(b) The corporation has failed to appoint and maintain a registered agent in this state as required by this act; or

(c) The corporation has failed, after change of its registered agent, to file in the office of the secretary of state a statement of such change as required by this act; or

(d) The corporation has failed to file in the office of the secretary of state any amendment to its articles of incorporation or any articles of merger within the time prescribed by this act; or

(e) The certificate of authority of the corporation was procured through fraud practiced upon the state; or

(f) The corporation has continued to exceed or abuse the authority conferred upon it by this act; or

(g) A misrepresentation has been made of any material matter in any application, report, affidavit, or other document submitted by such corporation pursuant to this act.

No certificate of authority of a foreign corporation shall be revoked by the secretary of state unless

(1) he shall have given the corporation not less than sixty (60) days' notice thereof by mail addressed to its registered office in this state, and

(2) the corporation shall fail prior to revocation to file such annual report, or pay such fees or penalties, or file the required statement of change of registered agent, or file such articles of amendment or articles of merger, or correct such misrepresentation.

Section 79. **Issuance of certificate of revocation.** Upon revoking any such certificate of authority, the secretary of state shall:

Issuance of certificate of revocation.

HeinOnline -- 1967 vol. I 577 1967

(1) Issue a certificate of revocation in duplicate.

(2) File one of such certificates in his office.

(3) Mail to such corporation at its registered office in this state a notice of such revocation accompanied by one of such certificates.

Upon the issuance of such certificate of revocation, the authority of the corporation to conduct affairs in this state shall cease.

Conducting affairs without certificate of authority.

Section 80. **Conducting affairs without certificate of authority.** No foreign corporation which is conducting affairs in this state without a certificate of authority shall be permitted to maintain any action, suit or proceeding in any court of this state until such corporation shall have obtained a certificate of authority. Nor shall any action, suit or proceeding be maintained in any court of this state by any successor or assignee of such corporation on any right, claim or demand arising out of the conduct of affairs by such corporation in this state, until a certificate of authority shall have been obtained by such corporation or by a corporation which has acquired all or substantially all of its assets.

The failure of a foreign corporation to obtain a certificate of authority to conduct affairs in this state shall

The failure of a foreign corporation to obtain a certificate of authority to conduct affairs in this state shall not prevent such corporation from maintaining any action, suit or proceeding in any court of this state, until such corporation shall have obtained a certificate of authority.

A foreign corporation which conducts affairs in this state without a certificate of authority shall be liable to this state, for the years or parts thereof during which it conducted affairs in this state without a certificate of authority, in an amount equal to all fees which would have been imposed by this act upon such corporation had it duly applied for and received a certificate of authority to conduct affairs in this state as required by this act and thereafter filed all reports required by this act, plus all interest and penalties imposed by this act for failure to pay such fees. The attorney general shall bring proceedings to recover all amounts due this state under the provisions of this section.

HeinOnline -- 1967 vol. I 578 1967

Annual report of domestic and foreign corporations.

Section 81. **Annual report of domestic and foreign corporations.** Each domestic corporation, and each foreign corporation authorized to conduct affairs in this state, shall file, within the time prescribed by this act, an annual report setting forth:

(a) The name of the corporation and the state or country under the laws of which it is incorporated.

(b) The address of the registered office of the corporation in this state, and the name of its registered agent in this state at such address, and, in the case of a foreign corporation, the address of its principal office in the state or country under the laws of which it is incorporated.

(c) A brief statement of the character of the affairs which the corporation is actually conducting, or, in the case of a foreign corporation, which the corporation is actually conducting in this state.

(d) The names and respective addresses of the directors and officers of the corporation.

Such annual report shall be made on forms prescribed by the secretary of state, and the information therein contained shall be given as of the date of the execution of the report. It shall be executed by the corporation by its president, a vice-president, secretary, an assistant secretary, or treasurer, or, if the corporation is in the hands of a receiver or trustee, it shall be executed on behalf of the corporation by such receiver or trustee.

Filing of annual report of domestic and foreign corporations.

Section 82. **Filing of annual report of domestic and foreign corporations.** Such annual report of a domestic or foreign corporation shall be delivered to the secretary of state between the first day of January and the first day of March of each year, except that the first annual report of a domestic or foreign corporation shall be filed between the first day of January and the first day of March of the year next succeeding the calendar year in which its certificate of incorporation or its certificate of authority, as the case may be, was issued by the secretary of state. Proof to the satisfaction of the secretary of state that prior to the first day of March such report was deposited in the United States mail in a sealed envelope, properly addressed, with postage prepaid, shall be deemed a compliance with this requirement. If the

HeinOnline -- 1967 vol. I 579 1967

secretary of state finds that such report conforms to the requirements of this act, he shall file the same. If he finds that it does not so conform, he shall promptly return the same to the corporation for any necessary corrections, in which event the penalties hereinafter prescribed for failure to file such report within the time hereinabove provided shall not apply, if such report is corrected to conform to the requirements of this act and returned to the secretary of state within thirty (30) days from the date on which it was mailed to the corporation by the secretary of state.

Fees for filing documents and issuing certificates.

Section 83. **Fees for filing documents and issuing certificates.** The secretary of state shall charge and collect for:

(a) Filing articles of incorporation and issuing a certificate of incorporation, twenty dollars ($20).

(b) Filing articles of amendment and issuing a certificate of amendment, twenty dollars ($20).

(c) Filing restated articles of incorporation and issuing restated certificate of incorporation, twenty dollars ($20).

(d) Filing articles of merger or consolidation and issuing a certificate of merger or consolidation, twenty dollars ($20).

(e) Filing an application to reserve a corporate name, two dollars ($2).

(f) Filing a notice of transfer of a reserved corporate name, two dollars ($2).

(g) Filing a statement of change of address of registered office or change of registered agent, or both, two dollars ($2).

(h) Filing articles of dissolution, five dollars ($5).

(i) Filing an application of a foreign corporation for a certificate of authority to conduct affairs in this state and issuing a certificate of authority, twenty dollars ($20).

(j) Filing an application of a foreign corporation for an amended certificate of authority to conduct affairs in this state and issuing an amended certificate of authority, twenty dollars ($20).

HeinOnline -- 1967 vol. I 580 1967

(k) Filing a copy of an amendment to the articles of incorporation of a foreign corporation holding a certificate of authority to conduct affairs in this state, ten dollars ($10).

(l) Filing a copy of articles of merger of a foreign corporation holding a certificate of authority to conduct affairs in this state, twenty dollars ($20).

(m) Filing an application for withdrawal of a foreign corporation and issuing a certificate of withdrawal, five dollars ($5).

(n) Filing an annual report, five dollars ($5).

(o) Filing any other statement or report, except an annual report, of a domestic or foreign corporation, two dollars ($2).

(p) Filing an application to reserve a corporate name, five dollars ($5).

(q) Filing a notice of transfer of a reserved corporate name, five dollars ($5).

Miscellaneous charges.

Section 84. **Miscellaneous charges.** The secretary of state shall charge and collect:

(a) For furnishing a certified copy of any document, instrument, or paper relating to a corporation, thirty-five cents ($.35) per page and two dollars ($2) for the certificate and affixing the seal thereto.

(b) For furnishing any certificate not mentioned in this or the preceding section, five dollars ($5).

Penalties imposed upon corporations.

Section 85. **Penalties imposed upon corporation.** Each corporation, domestic or foreign, that has failed to file its annual report within the time required by this act and fails or refuses to file its annual report within thirty (30) days after the secretary of state has mailed to the corporation at its registered office a demand that such report be filed, shall be guilty of a misdemeanor and upon conviction thereof may be fined in any amount not exceeding five hundred dollars ($500).

Penalties imposed upon directors and officers.

Section 86. **Penalties imposed upon directors and officers.** Each director and officer of a corporation, domestic or foreign, who signs any articles, statement, report, application or other document filed with the sec-

HeinOnline -- 1967 vol. I 581 1967

retary of state which is known to such officer or director to be false in any material respect, shall be deemed to be guilty of a misdemeanor, and upon conviction thereof may be fined in any amount not exceeding five hundred dollars ($500).

Powers of secretary of state.

Section 87. **Powers of secretary of state.** The secretary of state shall have the power and authority reasonably necessary to enable him to administer this act efficiently and to perform the duties therein imposed upon him.

Appeal from secretary of state.

Section 88. **Appeal from secretary of state.** If the secretary of state shall fail to approve any articles of incorporation, amendment, merger, consolidation or dissolution, or any other document required by this act to be approved by the secretary of state before the same shall be filed in his office, he shall, within ten (10) days after the delivery thereof to him, give written notice of his disapproval to the person or corporation, domestic or foreign, delivering the same, specifying the reasons therefor. From such disapproval such person or corporation may appeal to the district court of the county in which the registered office of such corporation is, or is proposed to be, situated, or in the district court of Lewis and Clark county, by filing with the clerk of such court a petition setting forth a copy of the articles or other document sought to be filed and a copy of the written disapproval thereof by the secretary of state; whereupon the matter shall be tried de novo by the court ,and the court shall either sustain the action of the secretary of state or direct him to take such action as the court may deem proper.

If the secretary of state shall revoke the certificate of authority to transact business in this state of any foreign corporation, pursuant to the provisions of this act, such foreign corporation may likewise appeal to the district court of the county where the registered office of such corporation in this state is situated, or in the district court of Lewis and Clark county, by filing with the clerk of such court a petition setting forth a copy of its certificate of authority to transact business in this state and a copy of the notice of revocation given by the secretary of state; whereupon the matter shall be tried de novo by the court, and the court shall either sustain the action of

HeinOnline -- 1967 vol. I 582 1967

the secretary of state or direct him to take such action as the court may deem proper.

Appeals from all final orders and judgments entered by the district court under this section in review of any ruling or decision of the secretary of state may be taken as in other civil actions.

Certificates and certified copies to be received in evidence.

Section 89. **Certificates and certified copies to be received in evidence.** All certificates issued by the secretary of state in accordance with the provisions of this act, and all copies of documents filed in his office in accordance with the provisions of this act when certified by him, shall be taken and received in all courts, public offices and official bodies as prima facie evidence of the facts therein stated. A certificate by the secretary of state under the great seal of this state, as to the existence or nonexistence of the facts relating to corporations, which would appear from the presence or absence of documents filed in his office, or the compliance or noncompliance with the provisions of this act, shall be taken and received in all courts, public offices, and official bodies as prima facie evidence of the existence or nonexistence of the facts therein stated.

Forms to be prescribed by secretary of state.

Section 90. **Forms to be prescribed by secretary of state.** All reports required by this act to be filed in the office of the secretary of state shall be made in a form which shall be prescribed by the secretary of state.

Greater voting requirements.

Section 91. **Greater voting requirements.** Whenever, with respect to any action to be taken by the members or directors of a corporation, the articles of incorporation or bylaws require the vote or concurrence of a greater proportion of the directors or members than required by this act, the provisions of the articles of incorporation or bylaws shall control.

Waiver of notice.

Section 92. **Waiver of notice.** Whenever any notice is required to be given to any member or director of a corporation under the provisions of this act or under the provisions of the articles of incorporation or bylaws of the corporation, a waiver thereof in writing signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be equivalent to the giving of such notice.

HeinOnline -- 1967 vol. I 583 1967

Actions by members or directors without a meeting.

Section 93. **Action by members or directors without a meeting.** Any action required by this act to be taken at a meeting of the members or directors of a corporation, or any action which may be taken at a meeting of the members or directors, may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all of the members entitled to vote with respect to the subject matter thereof, or all of the directors, as the case may be.

Such consent shall have the same force and effect as a unanimous vote, and may be stated as such in any articles or document filed with the secretary of state under this act.

Unauthorized assumption of corporate powers.

Section 94. **Unauthorized assumption of corporate powers.** All persons who assume to act as a corporation without authority so to do shall be jointly and severally liable for all debts and liabilities incurred or arising as a result thereof.

Reservation of powers.

Section 95. **Reservation of power.** The legislative assembly shall at all times have power to prescribe such regulations, provisions and limitations as it may deem advisable, which regulations, provisions and limitations shall be binding upon any and all corporations subject to the provisions of this act, and the legislative assembly shall have power to amend, repeal or modify this act at pleasure.

Effect of repeal of prior acts.

Section 96. **Effect of repeal of prior acts.** The repeal of a prior act by this act shall not affect any right accrued or established, or any liability or penalty incurred, under the provisions of such act, prior to the repeal thereof.

Severability clause.

Section 97. **Effect of invalidity of part of this act.** If a court of competent jurisdiction shall adjudge to be invalid or unconstitutional any clause, sentence, paragraph, section or part of this act, such judgment or decree shall not affect, impair, invalidate or nullify the remainder of this act, but the effect thereof shall be confined to the clause, sentence, paragraph, section or part of this act so adjudged to be invalid or unconstitutional.

Repealing clause.

Section 98. **Repeal of prior acts.** Sections 15-1301, 15-1302, 15-1303, 15-1401, 15-1402, 15-1403, 15-1404, 15-1405, 15-1406, 15-1407, 15-1408, 15-1409, 16-1301, 16-1302,

HeinOnline -- 1967 vol. I 584 1967

16-1303, Revised Codes of Montana, 1947, and all other acts or parts of acts in conflict thereof are hereby repealed.

Section 99. This act shall be effective on December 31, 1968. Effective date.

Approved: February 28, 1967.

CHAPTER 199

An Act to Extend the Time Period for Resident Electricians to Obtain a License from the State Electrical Board Without an Examination; Amending Section 66-2816, R.C.M. 1947, and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 66-2816, R.C.M. 1947, is amended to read as follows: Amending clause.

"66-2816. **Licensing of those presently qualified.** Montana resident electricians who, prior to *July 1, 1967* have had at least four (4) years practical experience in installing electric wires and equipment covered by the National Electrical Code shall not be required to take the examination, but shall be issued a license by the board upon payment of the proper license fee and furnishing of proof satisfactory to the board of such four (4) years' experience; provided, such application is made within sixty (60) days after July 1, *1967*. All Montana resident contractors doing business on the effective date of this act shall be qualified to receive said license if application is made within the time provided herein." Licensing of electricians presently qualified.

Section 2. This act shall be in full force and effect from and after its passage and approval. Effective immediately.

Approved: February 28, 1967.

CHAPTER 200

An Act to Amend Section 1, Chapter 174, Laws of Montana, 1957, as Amended by Section 1, Chapter 83, Laws of Montana, 1965, Compiled as Section 11-1024, Re-

HeinOnline -- 1967 vol. I 585 1967

vised Codes of Montana, 1947, Relating to Group Hospitalization, Medical, Health, Accident and/or Group Life Insurance Contracts or Plans for the Benefit of the Officers and Employees and Their Dependents of Counties, Cities and Towns, to Include the Officers and Employees and Their Dependents of All Departments, Bureaus, Boards, Commissions and Agencies of the State of Montana; Repealing All Acts or Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 1, Chapter 174, Laws of Montana, 1957, as amended by Section 1, Chapter 83, Laws of Montana, 1965, compiled as Section 11-1024, Revised Codes of Montana, 1947, is hereby amended to read as follows:

Group insurance for all departments.

"11-1024. **Group insurance for** *all departments, bureaus, boards, commissions and agencies of the state of Montana,* **county, city, and town officers and employees —authority—approval of employees—limit on contributions.** All *departments, bureaus, boards, commissions and agencies of the state of Montana, and all* counties, cities, and towns are hereby authorized upon approval by two-thirds (2/3) vote of the officers and employees *of each such department, bureau, board, commission, agency, county, city and town,* to enter into group hospitalization, medical, health, accident and/or group life insurance contracts or plans for the benefit of their officers, employees, and their dependents, and the respective *administrative and* governing bodies are authorized to pay as part of the officers and employees salary one-half *(½)* of the total premium therefor; provided, however, that such payment shall not exceed seven dollars and fifty cents ($7.50) per month for each officer and employee; *and further provided that any such premiums shall not be line itemed as group insurance premiums in any budgets for any State of Montana departments or their subdivisions, and all premiums necessary to pay the cost of such group insurance programs as herein allowed shall be negotiated with the employees or their representatives, and when approved, the total cost necessary to fund such program, within the $7.50 recommendation, shall be taken from any salaries or salary raises of those employees to be covered and as provided for in any budget for any year of any biennium."*

HeinOnline -- 1967 vol. I 586 1967

Section 2. *The provisions of this act as they relate to group insurance coverage for all departments, bureaus, boards, commissions and agencies of the state of Montana shall be effective until June 30, 1971 or until further extended or limited by subsequent legislative acts.* Effectiveness limitation.

Section *3*. All acts or parts of acts in conflict herewith are hereby repealed. Repealing clause.

Approved: February 28, 1967.

CHAPTER 201

An Act to Amend Section 32-2407 of the Revised Codes of the State of Montana, 1947, Relating to Designation of Highways.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 32-2407 of the Revised Codes of Montana, 1947, be amended to read as follows: Amending clause.

"32-2407. **Commission to designate highways.** Commission to designate highways.

(1) The commission shall designate such public highways in the state as shall be classed as the federal-aid primary system.

(2) The commission shall in co-operation with the board of county commissioners, select such public highways in the state as shall be classed as the federal-aid secondary system, *taking into consideration the traffic count on said highway, the continuity of said highway in relation to the state highway systems as the same may connect or tie into a unified system of federal-aid highways and the taxable valuations which are affected by said highway.*

(3) The commission shall, in co-operation with adjoining states, select the routes of the federal-aid interstate system.

(4) The commission shall designate such public highways in the state as shall be classed as state highways and make necessary rules and regulations for the construction, repair, maintenance, and marking of state highways and bridges."

Approved: February 28, 1967.

HeinOnline -- 1967 vol. I 587 1967

CHAPTER 202

An Act Relating to Metropolitan Sanitary and/or Storm Sewer Districts Requiring County Commissioners, by Resolution, to Levy Not to Exceed Two Mills on Taxable Valuation of Lots and Parcels in the District for the Reserve Fund; to Establish and Fix Rental Charges Not in Excess of Five Dollars Per Year Per Unit User for Operation and Maintenance of the System and Charges Not in Excess of Three Dollars Per Year Per Unit User for Operation and Maintenance of a Sewage Treatment Plant; Providing for a Hearing Before Levy, Publication and Posting of Notice; Providing for Filing of Budget and Compliance With County Budget Laws and Requiring Records and Budget to Be Filed; Amending Section 16-4416, R.C.M. 1947, Enacted as Section 3, Chapter 165, Laws of 1965.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 16-4416, R.C.M. 1947, enacted as section 3, chapter 165, laws of 1965, is amended to read as follows:

Rates, charges and rentals for services.

"16-4416. **Rates, charges and rentals for services.** The board of county commissioners shall have full power and authority by ordinance or resolution to fix and establish just and equitable rates, charges and rentals for the services and benefits directly or indirectly afforded by any sanitary or storm sewer system construction in and for a metropolitan sanitary and/or storm sewer district formed under this chapter. Such rates, charges and rentals shall be as nearly as possible equitable in proportion to the services and benefits rendered, and may take into consideration the quantity of sewage produced and its concentration and water pollution qualities in general and the cost of disposal of sewage and storm waters. The board of county commissioners shall *have authority, by resolution and after hearing, to fix and establish the sewer rates, charges and rentals at amounts sufficient in each year, not to exceed five dollars ($5) per unit user per year, to provide income and revenue adequate for the payment of the reasonable expense of operation and maintenance of the system; to fix and establish an additional charge not to exceed three dollars ($3) per unit user per year for reasonable expense of operation and maintenance of a sewage treatment plant; and to levy;*

HeinOnline -- 1967 vol. I 588 1967

and assess a tax upon the taxable valuation of each lot or parcel of land and improvements in the district not in excess of two (2) mills on each dollar of taxable valuation to provide *sufficient revenues for the reserve fund of the* amounts necessary to meet the financial *requirements* of such fund as described in section 16-4417."

Hearing.

Section 2. Not less than thirty (30) days prior to the date of making the levy for operation and maintenance of the system, the county commissioners will hold a public hearing on the resolution. Notice clearly setting forth the subject matter of the hearing and the date and place thereof will be given by the commissioners by publication in a newspaper published and circulated in the county wherein the district is located once a week for three (3) consecutive weeks. The notice shall also be posted in three (3) public places within the district.

Budget for operation and maintenance.

Section 3. Not less than thirty (30) days prior to the date of the public hearing on the resolution, the county commissioners shall prepare and file in the office of the clerk and recorder of the county wherein the district is located and in the office of the board of county commissioners, a complete detailed budget for operation and maintenance of the system showing all income and expenditures for the year prior to the hearing and all estimated income and expenditures for the next ensuing year which the levy is assessed.

County budgets and expenditures.

Section 4. The provisions of law relating to county budgets and expenditures must be complied with by a metropolitan sanitary and/or storm sewer district.

Records.

Section 5. The records of the district pertaining to the collection of the operation and maintenance tax levied hereunder and the records of the district pertaining to expenditures for construction of the system be kept and maintained in the office of the treasurer of the county wherein the district is located. These records shall include, but not be limited to, a list of individual property which is delinquent in payment together with the name of the owner or owners thereof.

Approved: February 28, 1967.

HeinOnline -- 1967 vol. I 589 1967

CHAPTER 203

An Act to Amend Section 16-2818 R.C.M. 1947, to Provide for Payment of Costs of Medication, Medical Services and Hospitalization Incurred by Prisoners.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That Section 16-2818 R.C.M. 1947, is amended to read as follows:

Sheriff to receive all persons duly committed—medical expense.

"16-2818. (12482) **Sheriff to receive all persons duly committed—medical expense.** The sheriff must receive all persons committed to jail by competent authority, and provide them with necessary food, clothing, and bedding, for which he shall be allowed a reasonable compensation, to be determined by the board of county commissioners, and, except as provided in the next section, to be paid out of the county treasury. If in the opinion of the sheriff any prisoner, *while detained,* requires medication, medical services or hospitalization, the expense of the same shall be borne by the agency or authority at whose instance the prisoner is detained when the agency or authority is not the county wherein the prisoner is being detained. *The county attorney shall initiate proceedings to collect any charges arising from such medical services or hospitalization for the prisoner involved if it is determined the prisoner is financially able to pay.*"

Approved: February 28, 1967.

CHAPTER 204

An Act Amending Sections 46-2805, 46-2706 and 46-2810, R.C.M. 1947, Providing That the County Commissioners Must Remove Land From a Cattle Protective District Upon Receipt of a Proper Petition Requesting Such Removal Except Where There is an Indebtedness Outstanding Against Said District.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 46-2805, R.C.M. 1947, is amended to read as follows:

Removal and discontinuance of district—levy saved.

"46-2805. **Removal of area from protective district—discontinuance of district—levy saved.** Upon receipt of

HeinOnline -- 1967 vol. I 590 1967

a petition or petitions signed in the same number and the same manner as the petition to form the district provided for in section *46-2801* of this act, a board of county commissioners *shall* remove the area in its county from the cattle protective district or the boards of county commissioners of all of the counties affected may discontinue the entire cattle protective district, provided, however, that such action in discontinuing said district or part of district shall not affect any levy made prior to the receipt of such petition or petitions, and the proceeds of any levy made shall be used for the purposes as in this act set out, *and further providing, that no district or portion of such district shall be discontinued so long as there is any outstanding indebtedness against it.*"

Section 2. Section 46-2706, R.C.M. 1947 is amended to read as follows: Amending clause.

"46-2706. **Discontinuing county livestock protective committee.** Upon receipt of a petition or petitions signed as provided in section 46-2701, the board of county commissioners *shall* discontinue said county livestock protective committee, provided, however, that such action in discontinuing said committee shall not affect any levy made prior to the receipt of such petition or petitions, and the proceeds of any levy made shall be used for the purposes as in this act set out, *and further providing that no district shall be discontinued so long as there is any outstanding indebtedness against it.*" Discontinuing county livestock protection committee.

Section 3. Section 46-2810, R.C.M. 1947 is amended to read as follows: Amending clause.

"46-2810. **Discontinuance of district—levy saved.** Upon receipt of a petition or of petitions signed in the same number and in the same manner as the petition to form the district, as herein provided, the board of county commissioners *shall* discontinue the cattle protective district, provided, however, that such action in discontinuing said district shall not affect any levy made prior to the receipt of such petition or petitions, and the proceeds of any levy made shall be used for the purposes as in this act set out. *No district or portion of such district shall be discontinued so long as there is any outstanding indebtedness against it.*" Discontinuance of district—levy saved.

Approved: February 28, 1967.

HeinOnline -- 1967 vol. I 591 1967

CHAPTER 205

An Act to Amend Section 84-4913, by Requiring Information Agents to Report to the State Board of Equalization All Sums Upon Which No Withholding Tax Has Been Deducted Distributed to Individuals as Dividends, Interest and Certain Retirement Plan Payments, in Excess of Ten Dollars ($10) and Rents, Royalties, Salaries, Wages, Prizes, Awards, Annuities, Pensions and Other Distributions in Excess of Six Hundred Dollars ($600); and to Require the Return Form to be as Nearly Identical to the Comparable Federal Return Form as Possible.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 84-4913 is amended to read as follows:

Information agents' duties.

"84-4913. **Information agents' duties.** Every information agent shall make return to the board of complete information concerning *the following distributions made for any individual during the taxable year, upon which no withholding tax has been deducted:*

(1) Sums in excess of ten dollars ($10) distributed as dividends, interest as defined in section 6049 of the Internal Revenue Code of 1965 or as that section may be amended, and payments made under a retirement plan covering an owner-employee as defined in section 401 (c) (3) of the Internal Revenue Code of 1965 or as that section may be amended;

(2) Interest, other than that specified in subsection (1) of this section, rents, royalties, salaries, wages, prizes, awards, annuities, pensions and other fixed or determinable gains, profits and income in excess of six hundred dollars ($600), except interest coupons payable to the bearer.

Form.

The return should be made under the regulations and in the form and manner prescribed by the board, provided, however, that for ease of reporting, the form shall be as nearly identical to the comparable federal form as possible."

Approved: February 28, 1967.

HeinOnline -- 1967 vol. I 592 1967

CHAPTER 206

An Act to Amend Sections 66-1403 and 66-1410, R.C.M. 1947, to Increase the Osteopathic License Fees and to Increase the Compensation Paid to Members of the State Board of Osteopathic Examiners, and Providing an Effective Date Therefor.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 66-1403, R.C.M. 1947, is amended to read as follows: Amending clause.

"66-1403. **Regulation osteopathic licenses, educational qualifications and renewal.** (1) It shall be unlawful for any person to practice osteopathy in this state without a license from the board of osteopathic examiners. Any applicant applying for licensure shall be a person of good moral character. An applicant shall present evidence to the board that he has completed the following educational and professional requirements, (a) four years of high school or its scholastic equivalent; (b) at least two years preprofessional college education in an accredited college or university, if the applicant matriculated in an osteopathic college after 1938; (c) four years professional education in an osteopathic college conforming to the minimum educational standards for osteopathic colleges established by the American osteopathic association and which is approved by the board. Application shall be made on forms furnished by the board. An applicant who fails the examination shall be entitled to a second examination without charge at the next succeeding meeting of the board. Regulation osteopathic licenses, educational qualifications and renewal.

(2) Each individual, after the first year of registration, holding a certificate to practice under this act and who is in active practice in this state, shall on or before the first day of April of each year pay a renewal fee of *fifteen dollars ($15.00)* to the secretary of the board of osteopathic examiners; and each individual, after the first year of registration, holding a certificate to practice under this act, who is not in active practice, shall on or before the first of April of each year pay a renewal fee of *seven dollars and fifty cents ($7.50)* to the secretary of the board. The secretary of the board shall before the 15th of March of each year send a notice to each individual holding a valid certificate to practice

HeinOnline -- 1967 vol. I 593 1967

under this act and from whom a fee is due stating that such fee is due.

(3) The certificate to practice under this act automatically becomes void when the renewal fee is not paid at the time named. Provided that the board may reinstate a practitioner whose certificate has lapsed upon the payment of all back renewal fees or upon the payment of *fifty dollars ($50.00)* if the lapsed fees exceed that amount."

Amending clause.

Section 2. Section 66-1410, R.C.M. 1947, is amended to read as follows:

Compensation of board—report to governor.

"66-1410. **Compensation of board—report to governor.** Each of the members of said board may receive as compensation *a sum not to exceed twenty dollars ($20.00)* for each day actually engaged in the duties of their office, together with all legitimate and necessary expenses incurred in attending the meetings of said board. The fees coming into said board shall be deposited into the state treasury to the credit of the earmarked revenue fund for the use of the state board of osteopathic examiners. Said board shall make an annual report of its proceedings to the governor of the state for the year ending on the thirty-first day of December preceding the making of said report. Said report shall be filed with the governor on or before the fifteenth day of January of each year."

Effective immediately.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved: February 28, 1967.

CHAPTER 207

An Act to Amend the Workmen's Compensation Act by Increasing Benefits In All Categories.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That Section 92-701, R.C.M. 1947 be amended to read as follows:

Compensation for injury producing temporary total disability.

"92-701. **Compensation for injury producing temporary total disability.** Where the injured employee has no wife, child, father, mother, brother, or sister residing

HeinOnline -- 1967 vol. I 594 1967

within the United States who would be entitled to compensation in case of his death, fifty per centum (50%) of the weekly wages received at the time of injury, subject to a maximum compensation of *thirty-seven dollars ($37.00)* per week; where the injured employee has a wife, or child, or father or mother or brother or sister residing within the United States, who would be entitled to compensation in case of his death, fifty-five per centum (55%) of the weekly wages received at the time of the injury, subject to a maximum compensation of *forty dollars ($40.00)* per week; where the injured employee has a wife and one (1) child, or two (2) children, or a father and mother, or two (2) or more brothers and/or sisters residing within the United States who would be entitled to compensation in case of his death, sixty per centum (60%) of the weekly wages received at the time of the injury, subject to a maximum compensation of *forty-five dollars ($45.00)* per week; where the injured employee has a wife and two (2) children, or three (3) children residing within the United States who would be entitled to compensation in case of his death, sixty-two and one-half per centum (62½%) of the weekly wages received at the time of the injury, subject to a maximum compensation of *fifty dollars ($50.00)* per week; where the injured employee has a wife and three (3) children, or four (4) children residing within the United States who would be entitled to compensation in case of his death, sixty-five per centum (65%) of the weekly wages received at the time of his injury, subject to a maximum compensation of *fifty-five dollars ($55.00)* per week; where the injured employee has a wife and four (4) or more children, or five (5) or more children residing in the United States who would be entitled to compensation in the case of his death, sixty-six and two-thirds per centum (66 2/3%) of the weekly wages received at the time of the injury, subject to a maximum compensation of *sixty dollars ($60.00)* per week, and subject in all cases to a minimum compensation of *thirty-four and 50/100 dollars ($34.50)* per week, and subject to change when the number of beneficiaries or dependents increases by birth, or decreases. Such compensation shall be paid during the period of disability, but for the period not exceeding three hundred (300) weeks from the date of injury."

HeinOnline -- 1967 vol. I 595 1967

Amending clause.

Section 2. That Section 92-702, R.C.M. 1947, be amended to read as follows:

Compensation for injury resulting in permanent and total disability.

"92-702. **Compensation for injury producing total disability permanent in character.** Where the injured employee has no wife, child, father, mother, brother or sister residing within the United States who would be entitled to compensation in case of his death, fifty per centum (50%) of the weekly wages received at the time of the injury, subject to a maximum compensation of *thirty-seven dollars ($37.00)* per week; where the injured employee has a wife, or child, or father, or mother, or brother or sister residing within the United States who would be entitled to compensation in case of his death, fifty-five per centum (55%) of the weekly wages received at the time of the injury, subject to a maximum compensation of *forty dollars (40.00)* per week; where the injured employee has a wife and one (1) child, or two (2) children, or a father and mother, or two (2) or more brothers and/or sisters, residing within the United States who would be entitled to compensation in case of his death, sixty per centum (60%) of the weekly wages received at the time of the injury, subject to a maximum compensation of *forty-five dollars ($45.00)* per week; where the injured employee has a wife and two (2) children, or three (3) children residing within the United States who would be entitled to compensation in case of his death, sixty-two and one-half per centum (62½%) of the weekly wages received at the time of the injury, subject to a maximum compensation of *fifty dollars ($50.00)* per week; where the injured employee has a wife and three (3) children, or four (4) children residing within the United States who would be entitled to compensation in case of his death, sixty-five per centum (65%) of the weekly wages received at the time of the injury, subject to a maximum compensation of *fifty-five dollars ($55.00)* per week; where the injured employee has a wife and four (4) children, or five (5) or more children residing within the United States who would be entitled to compensation in case of his death, sixty-six and two-thirds per centum (66 2/3%) of the weekly wages received at the time of the injury, subject to a maximum compensation of *sixty dollars ($60.00)* per week; and subject in all cases to a minimum compensation of *thirty-four and 50/100 dollars ($34.50)* per week; and subject to change when the number of beneficiaries

HeinOnline -- 1967 vol. I 596 1967

or dependents increases by birth, or decreases. Such compensation shall be paid during the period of disability, but for the period not exceeding five hundred (500) weeks from the date of injury."

Section 3. That Section 92-703, R.C.M. 1947, be amended to read as follows: Amending clause.

"92-703. **For partial disability.** Where the injured employee has no wife, child, father, mother, brother or sister residing within the United States who would be entitled to compensation in case of his death, fifty per centum (50%) of the difference between the wages received at the time of the injury and the wages that such injured employee is able to earn thereafter, subject to a maximum compensation of *thirty-seven dollars ($37.00)* per week; where the injured employee has a wife, or child, or father, or mother, or brother or sister residing within the United States who would be entitled to compensation in case of his death, fifty-five per centum (55%) of the difference between the wages received at the time of the injury and the wages that such injured employee is able to earn thereafter, subject to a maximum compensation of *forty dollars ($40.00)* per week; where the injured employee has a wife and one (1) child, or two (2) children, or a father and mother, or two (2) or more brothers and/or sisters residing within the United States who would be entitled to compensation in case of his death, sixty per centum (60%) of the difference between the wages received at the time of the injury and the wages that such injured employee is able to earn thereafter, subject to a maximum compensation of *forty-five dollars ($45.00)* per week; where the injured employee has a wife and two (2) children, or three (3) children residing within the United States who would be entitled to compensation in case of his death, sixty-two and one-half per centum (62½%) of the difference between the wages received at the time of the injury and the wages that such injured employee is able to earn thereafter, subject to a maximum compensation of *fifty dollars ($50.00)* per week; where the injured employee has a wife and three (3) children, or four (4) children residing within the United States who would be entitled to compensation in case of his death, sixty-five per centum (65%) of the difference between the wages received at the time of the injury and the wages that such injured employee is able to earn thereafter, subject to a maximum compensation Partial disability.

HeinOnline -- 1967 vol. I 597 1967

of *fifty-five dollars ($55.00)* per week; where the injured employee has a wife and four (4) or more children, or five (5) or more children residing within the United States who would be entitled to compensation in case of his death, sixty-six and two-thirds per centum (66 2/3%) of the difference between the wages received at the time of the injury and the wages that such injured employee is able to earn thereafter, subject to a maximum compensation of *sixty dollars ($60.00)* per week; not exceeding however, the maximum compensation allowed in cases of total disability, and not exceeding in amount or duration the total compensation provided in the act for the total loss of the member causing such partial disability. Such compensation shall be paid during the period of disability, not exceeding however, five hundred (500) weeks in cases of permanent partial disability, and fifty (50) weeks in cases of temporary partial disability, subject to change when the number of dependents increases by birth, or decreases, provided, however, that compensation for partial disability resulting from the loss of or injury to any member shall not be payable for a greater number of weeks than is specified in section 92-709 for the loss of such member."

Amending clause.

Section 4. That Section 92-704, R.C.M. 1947, be amended to read as follows:

Compensation for injury causing death.

"92-704. **Compensation for injury causing death.** For beneficiaries residing within the United States: Where decedent leaves one (1) beneficiary, fifty per centum (50%) of the wages received at the time of the injury, subject to a maximum compensation of *thirty-seven dollars ($37.00)* per week; where decedent leaves two (2) beneficiaries, fifty-five per centum (55%) of the wages received at the time of the injury, subject to a maximum compensation of *forty dollars ($40.00)* per week; where decedent leaves three (3) beneficiaries, sixty per centum (60%) of the wages received at the time of the injury subject to a maximum compensation of *forty-five dollars ($45.00)* per week; where decedent leaves four (4) beneficiaries, sixty-two and one-half *per centum* (62½%) of the wages received at the time of the injury, subject to a maximum compensation of *fifty-dollars ($50.00)* per week; where decedent leaves five (5) beneficiaries, sixty-five per centum (65%) of the wages received at the time of the injury, subject to a maximum compensation of *fifty-five dollars ($55.00)* per week; where decedent leaves six (6)

HeinOnline -- 1967 vol. I 598 1967

or more beneficiaries, sixty-six and two-thirds per centum (66 2/3%) of the wages received at the time of the injury, subject to a maximum compensation of *sixty dollars ($60.00)* per week; and subject in all such cases to a minimum compensation of *thirty-four and 50/100 dollars ($34.50)* per week.

Beneficiaries outside the U. S.

For beneficiaries residing outside of the United States: Where decedent leaves one (1) beneficiary, forty per centum (40%) of the compensation which would be payable to such beneficiary, if residing within the United States; where decedent leaves two (2) beneficiaries, forty-five per centum (45%) of the compensation which would be payable to such beneficiaries, if residing within the United States; where decedent leaves three (3) beneficiaries, forty-seven and one-half per centum (47½%) of the compensation which would be payable to such beneficiaries, if residing within the United States; where decedent leaves four (4) or more beneficiaries, fifty per centum (50%) of the compensation which would be payable to such beneficiaries, if residing within the United States.

No beneficiaries.

If decedent leaves no beneficiaries, then compensation shall be payable as follows: To his major dependents, if any, residing in the United States at the date of the happening of the injury; where decedent leaves one (1) major dependent, fifty per centum (50%) of the wages received at the time of the injury, subject to a maximum compensation of *thirty-seven dollars ($37.00)* per week; where decedent leaves two (2) major dependents, fifty-five per centum (55%) of the wages received at the time of the injury, subject to a maximum compensation of *forty-one dollars ($41.00)* per week.

No major dependents.

If the decedent leaves no major dependents, compensation shall be payable to his minor dependents, if any, if residing within the United States at the time of the happening of the injury, as follows: Where decedent leaves one (1) minor dependent, thirty per centum (30%) of the wages received at the time of the injury, subject to a maximum compensation of *thirty-eight dollars ($38.00)* per week; where decedent leaves two (2) minor dependents, thirty-five per centum (35%) of the wages received at the time of the injury, subject to a maximum compensation of *forty dollars ($40.00)* per week; where decedent leaves three (3) or more minor dependents,

HeinOnline -- 1967 vol. I 599 1967

forty per centum (40%) of the wages received at the time of the injury, subject to a maximum compensation of *fifty dollars ($50.00)* per week.

Lump sum.

If the decedent leaves no major or minor dependents a lump sum in the amount of three thousand and no/100 dollars ($3,000.00) shall be payable to his surviving parent or parents.

Maximum compensation.

All such payments of compensation provided for in this section shall be subject to a maximum compensation of *sixty dollars ($60.00)* per week for a period not exceeding five hundred (500) weeks and subject to change when the number of beneficiaries or dependents increases by birth, or decreases, and provided, further, that compensation payable to major or minor dependents shall not exceed the amount of the dependency."

Amending clause.

Section 5. That Section 92-709, R.C.M. 1947, be amended to read as follows:

Compensation in case of specified injuries.

"92-709. **Compensation in case of specified injuries.** In case of the following specified injuries, the compensation in lieu of any other compensation provided by this act, shall be as follows: Where the injured employee has no wife, child, father, mother, brother, or sister residing within the United States who would be entitled to compensation in case of his death, fifty per centum (50%) of the wages received at the time of the injury, subject to a maximum compensation of *thirty-seven dollars ($37.00)* per week; where the injured employee has a wife, or child, or father or mother, or brother or sister residing within the United States who would be entitled to compensation in case of his death, fifty-five per centum (55%) of the wages received at the time of the injury, subject to a maximum compensation of *forty dollars ($40.00)* per week; where the injured employee has a wife and one (1) child, or two (2) children, or a father and mother, or two (2) or more brothers and/or sisters residing within the United States who would be entitled to compensation in case of his death, sixty per centum (60%) of the wages received at the time of the injury, subject to a maximum compensation of *forty-five dollars ($45.00)* per week; where the injured employee has a wife and two (2) children or three (3) children residing within the United States who would be entitled to compensation in case of his death, sixty-two and one-half per

HeinOnline -- 1967 vol. I 600 1967

centum (62½%) of the wages received at the time of injury, subject to a maximum compensation of *fifty dollars ($50.00)* per week; where the injured employee has a wife and three (3) children, or four (4) children residing within the United States who would be entitled to compensation in case of his death, sixty-five per centum (65%) of the wages received at the time of the injury, subject to a maximum compensation of *fifty-five dollars ($55.00)* per week; where the injured employee has a wife and four (4) or more children, or five (5) or more children residing within the United States who would be entitled to compensation in case of his death, sixty-six and two-thirds per centum (66 2/3%) of the wages received at the time of the injury, subject to a maximum compensation of *sixty dollars ($60.00)* per week, subject to change when the number of beneficiaries or dependents increases by birth, or decreases, and subject in all cases to a minimum compensation of *thirty-four and 50/100 dollars ($34.50)* per week, and shall be paid for the following periods:

For loss of:

One arm at or near shoulder	280 weeks
One arm at the elbow	240 weeks
One arm between wrist and elbow	220 weeks
One hand	200 weeks
One thumb and the metacarpal bone thereof	75 weeks
One thumb at the proximal joint	37 weeks
One thumb at the second distal joint	25 weeks
One first finger and the metacarpal bone thereof	40 weeks
One first finger at the proximal joint	30 weeks
One first finger at the second joint	22 weeks
One first finger at the distal joint	15 weeks
One second finger and the metacarpal bone thereof	37 weeks
One second finger at the proximal joint	20 weeks
One second finger at the second joint	15 weeks
One second finger at the distal joint	8 weeks
One third finger and the metacarpal bone therethereof	25 weeks
One third finger at the proximal joint	15 weeks
One third finger at the second joint	10 weeks
One third finger at the distal joint	5 weeks
One fourth finger and the metacarpal bone thereof	15 weeks

HeinOnline -- 1967 vol. I 601 1967

One fourth finger at the proximal joint	11 weeks
One fourth finger at the second joint	8 weeks
One fourth finger at the distal joint	6 weeks
One leg at or near the hip joint as to preclude the use of an artifical limb	300 weeks
One leg at or above the knee where stump remains sufficient to permit the use of an artificial limb	200 weeks
One leg between knee and ankle	190 weeks
One foot at the ankle	180 weeks
One great toe with the metatarsal bone thereof	37 weeks
One great toe at the proximal joint	18 weeks
One great toe at the second joint	12 weeks
One toe other than the great toe with the metatarsal bone thereof	16 weeks
One toe other than the great toe at the proximal joint	8 weeks
One toe other than the great toe at second or distal joint	5 weeks
One eye by enucleation	165 weeks
Total blindness of one eye	140 weeks
Total loss of hearing one ear	40 weeks
Total loss of hearing, both ears	200 weeks

Loss of vision: Where central visual acuity does not exceed 20/200 in the better eye with correcting lenses or the widest diameter of the visual field subtends an angle no greater than 20 degrees, the same as for loss of the eye.

Total loss of use: Indemnity benefits for permanent total loss of use of a member shall be the same as for loss of the member.

Partial loss or partial loss of use: Indemnity benefits for permanent partial loss or loss of use of a member may be for proportionate loss or loss of use of the member.

In any case in which there shall be a loss, or loss of use, of more than one member as set forth in this section, not amounting to permanent total disability, the award of idemnity benefits shall be for the loss, or loss of use thereof, which awards shall run consecutively, provided, however, that the total award or compensation in no case shall exceed five hundred (500) weeks.

HeinOnline -- 1967 vol. I 602 1967

Disfigurement: The board may award proper and equitable indemnity benefits for serious face, head, or neck disfigurement, not to exceed twenty-five hundred dollars ($2,500.00) in addition to any other indemnity benefits payable under this section.

The loss of both hands, or both arms, or both feet, or both legs, or both eyes, or any two (2) thereof, in one (1) accident, in the absence of conclusive proof to the contrary shall constitute total disability, permanent in character. Provided, however, that the percentage of permanent disability caused by any single accident or injury shall be so computed as to cover the permanent disability caused by that particular injury without reference to any previous physical ailment or defect or to any injury previously suffered or any permanent disability caused thereby; provided, that no payment under this section shall be in lieu of the separate benefit of medical and hospital services."

Approved: February 28, 1967.

CHAPTER 208

An Act to Amend Section 11-1911, Revised Codes of Montana, 1947, Providing for the Receipt and Return of Monthly Contributions by Paid Members of Fire Department Relief Associations to the Disability and Pension Funds of Such Associations; Also Amending Section 11-1912, Revised Codes of Montana, as Amended, Providing for Tax Levies for Such Funds of Such Associations; Also Amending Section 11-1915, Revised Codes of Montana, 1947, Providing for Payments of Benefits and Allowances From Such Funds; Also Amending Section 11-1919, Revised Codes of Montana, 1947, as Amended, to Provide for Payments to Fire Department Relief Associations by the State Auditor Out of Insurance Premium Taxes Collected by Him; Also Amending Section 11-1925, Revised Codes of Montana, 1947, as Amended, Making Provisions for Pensions to Retired Firemen by Such Fire Department Relief Associations; Also Amending Section 11-1926, Revised Codes of Montana, 1947, as Amended, Making Provisions for Disability Pensions to Disabled Firemen by Such Fire Department Relief Associations;

HeinOnline -- 1967 vol. I 603 1967

Also Amending Section 11-1927, Revised Codes of Montana, 1947, as Amended, Providing for Pensions to Widows and Orphans of Deceased Firemen by Such Fire Department Relief Associations; Also Amending Section 11-1928, Revised Codes of Montana, 1947, Providing for the Uses of Disability and Pension Funds of Fire Department Relief Associations for the Payment of Allowances, Benefits, Pensions, Insurance Premiums; Providing for the Method of Such Payments; Providing for the Repeal of Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 11-1911, Revised Codes of Montana, 1947, is amended to read as follows:

Source of fund.

"11-1911. **Source of fund.** The disability and pension fund of the fire department relief association of such city or town shall consist of all bequests, fees, gifts, emoluments or donations given or paid to such fund, or any of its members, except as otherwise designated by the donor, and a monthly fee which shall be paid into the fund by each paid member and part paid member of said fire department relief association amounting to *six* percent *(6%)* of his regular monthly salary, the proceeds of a tax levy as provided by section 11-1912, *R.C.M. 1947,* and all monies received from the state of Montana as provided for by section 11-1919, *R.C.M. 1947,* and the interest of any portion of such fund.

Any such paid or part paid firemen shall be entitled to a return, in lump sum, without interest, of all monthly contributions made by him to such funds, within sixty (60) days of his permanent separation from service in the fire department of such city, town or municipality, except separation by reason of retirement, death or disability, which would otherwise qualify such separated fireman, his widow or orphans, to benefits or allowances from such fire department relief association."

Amending clause.

Section 2. Section 11-1912, Revised Codes of Montana, 1947, as amended, is further amended to read as follows:

Tax levy for fund.

"11-1912. **Tax levy for fund.** For the purpose of maintaining said disability and pension funds of such fire department relief association, in an amount equal to *two per centum (2%)* of the taxable valuation of all taxable property within the limits of any city, town or municipal-

HeinOnline -- 1967 vol. I 604 1967

ity, the city or town council or the commission or such other proper authority of any municipality, as is now or may hereafter be established, under special or local laws passed by the legislative assembly and adopted by the electors within such city, town or municipality, entitled to vote thereon, at all times when the said relief association fund is in a total amount of less than *two per centum (2%)* of the taxable valuation of all taxable property within the limits of the city, town or municipality, shall, annually, in the manner provided by law, at the time of the levy of the annual tax, levy a special tax as hereinbelow set forth, which said special tax shall be collected as other taxes are collected and when so collected shall be paid into the disability and pension fund of the fire department relief association of said city, town or municipality:

1. Whenever the total amount of a fire department relief association's fund is less than two per centum (2%) of the taxable valuation of all taxable property within the limits of the city, town or municipality, the special tax levy shall be not less than one (1) mill nor more than four (4) mills on each dollar of taxable valuation of all property assessed for taxes within the limits of said city, town or municipality; and said special tax levy shall be an amount sufficient as will provide a growth per year in such fire department relief association's fund, considering all sources of income to such fund and the payment of obligations out of such fund, in an amount equal to the sum produced by one (1) mill levied on the taxable valuation of all the taxable property in said city, town or municipality.

2. Whenever the total amount of the fire department relief association's fund is less than two per centum (2%) of the taxable valuation of all taxable property within said city, town or municipality, but more than one per centum (1%) of said taxable valuation, and when the special tax levy of one (1) mill on each dollar of taxable valuation within said city, town or municipality will cause such fund, considering all sources of income, and all payments to be made out of such fund, to exceed two per centum (2%) of the taxable valuation of all taxable property within said city, town or municipality, the tax levy shall be such fractional part of one (1) mill as will produce sufficient revenue to cause the fire department relief association's disability and pension fund to be more

HeinOnline -- 1967 vol. I 605 1967

than two per centum (2%) of the taxable valuation of all taxable property in said city, town or municipality.

3. In cities of the third class, when the fire department relief association's disability and pension fund contains an amount of less than two per centum (2%) of all taxable property within the city limits of the city, town or municipality, the city council may levy an annual special tax not to exceed *four (4)* mills on the dollar of all taxable valuation of all taxable property assessed within the said city, town or municipality."

Amending clause.

Section 3. That section 11-1915, Revised Codes of Montana, 1947, is amended to read as follows:

Benefits allowed for, how allowed, and how paid.

"11-1915 **Benefits, allowed for, how allowed, and how paid.** Every fire department relief association may allow to its members benefits for the following causes, as provided by law.

1. A service pension to a member who, by reason of service, has become entitled to a service pension.

2. To a member who has become maimed or disabled for life in line of duty.

3. To a member who has suffered injury in line of duty.

4. To a member who has contracted sickness in line of duty.

5. Funeral expenses of a member.

6. Pensions to the widow, orphan or orphans of a deceased member.

All applications for relief shall be referred to the board of trustees. All claims shall be referred to the board of trustees for allowance or disallowance and claimant shall have the right to appeal to the association in the event his claim be disallowed. All claims shall be paid by warrant, duly authorized, drawn by the secretary, and countersigned by the president of the association, and on presentation thereof, the treasurer of the association shall pay the same out of the said pension and disability fund."

Amending clause.

Section 4. That section 11-1919, Revised Codes of Montana, 1947, as amended, be further amended as follows:

HeinOnline -- 1967 vol. I 606 1967

"11-1919. **State auditor to pay fire department relief association out of license fees collected from insurance companies.** *At the end of the fiscal year, the state auditor shall issue and deliver to the treasurer of every city or town of the first and second class, for the use and benefit of the fire department relief association legally existing in every such city or town entitled by law to receive the same, out of the license fees on insurance risks collected by him, an amount equal to ten per centum (10%) of the total annual compensation paid by such city or town to its paid or part paid firemen for services in the previous calendar year. The city clerk of each such city or town shall certify in writing to the state auditor, on or before March 1 of each year, the amount so paid by such city or town as compensation for services to paid or part paid firemen.*

Payment of fire department relief association out of insurance company license fees.

1. At the end of the fiscal year, the state auditor shall issue and deliver to the treasurer of every city or town, *except cities or towns of the first or second class,* for the use and benefit of the fire department relief association legally existing in every such city or town entitled by law to receive the same, his warrant for an amount equal to the taxes upon the fire portion of the direct premiums after deducting cancellations and return premiums, collected by the state auditor, ex officio insurance commissioner, from insurers authorized to effect insurance on risks enumerated in subsection 2 of this section, as said cities or towns are each severally entitled to, computed as follows:

(a) Each and every fire department relief association legally organized and existing in any city or town, *except cities or towns of the first or second class,* and entitled by law to receive the same shall receive, as its portion of the total taxes on premiums collected from insurers authorized to effect insurance on risks enumerated in subsection 2 of this section, the fire portion of the direct premiums, after deducting cancellations and return premiums, assessed and collected by insurers authorized to effect insurance on risks enumerated in subsection 2 of this section in the said city or town.

(b) The legally organized and existing fire department relief associations in all cities or towns where the taxes on premiums collected and distributed pursuant to subdivision (a) above is insufficient to make an amount

HeinOnline -- 1967 vol. I 607 1967

equal to one hundred dollars ($100) shall receive such additional amount from the total taxes on premiums collected from insurers authorized to effect insurance against risks enumerated in subsection 2 of this section as may be necessary to make the total amount received by said fire department relief association equal to the sum of one hundred dollars ($100).

2. The risks referred to in subsection 1 above, are enumerated as follows: insurance of houses, buildings, and all other kinds of property against loss or damage by fire or other casualty, and all kinds of insurance on goods, merchandise, or other property in the course of transportation, whether on land or water or air; insurance against loss or damage to motor vehicles resulting from accident, collision, or marine and inland navigation and transportation perils; insurance of growing crops against loss or damage resulting from hail or the elements; insurance against loss or damage by water to any goods or premises arising from the breakage or leakage of sprinklers, pumps or other apparatus; and insurance against loss or legal liability for loss because of damage to property caused by the use of teams or vehicles whether by accident or collision or by explosion of any engine or tank or boiler or pipe or tire of any vehicle, and also including insurance against theft of the whole or any part of any vehicle."

Amending clause.

Section 5. That section 11-1925, Revised Codes of Montana, 1947, as amended, be further amended as follows:

Pensions to retired firemen.

"11-1925. **Pensions to retired firemen.** Each and every fire department relief association organized and existing under the laws of this state shall pay to each of its members who elect to retire from active service after having completed twenty (20) years or more of active duty and has reached the age of fifty (50) years as a fully paid member of a paid, or partly paid and partly volunteer fire department of the city or town wherein such association has been formed, out of any money in the association's 'disability and pension fund,' a 'service pension' in an amount which shall be equal to one-half (½) of the sum last received by the member as a monthly compensation for his services as an active member of said fire department. However, effective July 1, 1963, and after completing twenty (20) years or

HeinOnline -- 1967 vol. I 608 1967

more of active service and attaining the age of fifty (50) years, a member elects to serve an additional one (1) to (10) years, then the pension shall be increased at the rate of one percent (1%) per year of such additional service, up to a maximum of sixty percent (60%) of the last month's salary received as a monthly compensation for his services as an active member of said fire department. In case of volunteer men the compensation shall in no event exceed the sum of seventy-five dollars ($75) per month.

A member of a pure volunteer fire department who has served twenty (20) years or more as an active member of such a fire department, without qualifying as to any provisions pertaining to an attained age, shall be entitled to the benefits provided for by this act."

Amending clause.

Section 6. That section 11-1926, Revised Codes of Montana, 1947, as amended, be further amended as follows:

Disability pension.

"11-1926. **Disability pension.** Each and every fire department relief association, organized and existing under the laws of this state, shall pay a 'disability pension,' out of any moneys in the association's 'disability and pension fund,' to each and every member of said association who has become injured or disabled by reason of sickness or injury contracted or received in line of duty, in an amount which shall be equal to one-half (½) of the sum last received as a monthly compensation by such injured or disabled member for services rendered the fire department of the city or town wherein such association has been formed. However, effective July 1, 1963, and after completing twenty (20) years or more of active service and attaining the age of fifty (50) years, a member elects to serve an additional one (1) to ten (10) years, then the pension shall be increased at the rate of one percent (1%) per year of such additional service, up to a maximum of sixty percent (60%) of the last month's salary received as a monthly compensation for his services as an active member of said fire department. In case of volunteer firemen such disability pension shall in no event exceed the sum of seventy-five ($75) dollars per month."

Amending clause.

Section 7. That section 11-1927, Revised Codes of Montana, 1947, as amended, be further amended as follows:

HeinOnline -- 1967 vol. I 609 1967

Pensions to widows and orphans.

"11-1927. **Pensions to widows and orphans.** Each and every fire department relief association, organized and existing under the laws of this state, shall pay to the widow or orphans of a deceased member of said association, who, on the date of his decease, was an active member of the fire department in the city or town wherein such association has been formed, or had elected to retire from active service of said fire department and receive a 'service pension' as provided for by section 11-1925, or prior to his decease had suffered a sickness or injury, and was receiving or was qualified to receive a 'disability pension,' as provided by section 11-1926, out of any money in the relief association's 'disability and pension fund,' a monthly pension in an amount which shall be equal to one-half (½) of the monthly compensation last received by such deceased member for his services as an active member of the fire department in the city or town wherein such association has been formed. However, effective July 1, 1963, and after completing twenty (20) years or more of active service and attaining the age of fifty (50) years, a member elects to serve an additional one (1) to ten (10) years, then the pension shall be increased at the rate of one percent (1%) per year of such additional service, up to a maximum of sixty percent (60%) of the last month's salary received as a monthly compensation for his services as an active member of said fire department. Provided, that said pension shall be paid to the within named widow only so long as she remains unmarried, and further provided, that a widow of a deceased fireman shall not be entitled to the pension, provided for by this act, in those cases where the marriage was consummated after the fireman had elected to retire from active service and received a 'service pension' as provided for by section 11-1925; or in those cases where the marriage was consummated after the fireman had qualified and was receiving a 'disability pension' as provided for by section 11-1926. Provided further, that the pension herein provided for shall not be paid to the orphans of deceased firemen after they have attained the age of eighteen (18) years. In case of volunteer firemen such pension shall in no event exceed the sum of seventy-five ($75) dollars per month."

Amending clause.

Section 8. That section 11-1928, Revised Codes of Montana, 1947, be amended as follows:

HeinOnline -- 1967 vol. I 610 1967

"11-1928. **Use of disability and pension fund of fire department relief association.** Said fund shall not be used for any other purpose whatsoever, other than for the payment of the following: Use of disability and pension fund of fire department relief association.

1. A service pension to a member who, by reason of service, has become entitled to a service pension.

2. A pension to a member who has become *permanently* maimed or disabled in line of duty.

3. A benefit or allowance to a member who has suffered *a permanent disabling* injury in line of duty.

4. A benefit or allowance to a member who has contracted *a permanent disabling* sickness in line of duty.

5. To defray the funeral expenses of a member, in an amount not to exceed, however, the sum of *seven hundred fifty dollars ($750).*

6. Payment to the widow, orphan or orphans of a deceased member *as provided by law.*

7. The payment of premiums upon a blanket policy of insurance covering the members of such fire department and providing for payment of compensation in case of death or injury to such member or any of them.

8. *The return of employee contribution as provided by law.*

9. All claims shall be paid by warrant duly authorized, drawn by the secretary, and countersigned by the president of the association and on presentation thereof, the treasurer shall pay the same out of the said disability and pension fund."

Section 9. All acts and parts of acts in conflict herewith are hereby repealed. Repealing clause.

Approved: February 28, 1967.

CHAPTER 209

An Act to Amend Section 8-119, R.C.M. 1947, Relating to Penalties for Violations of Law by Regulated Motor Carriers.

HeinOnline -- 1967 vol. I 611 1967

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 8-119, R.C.M. 1947, is amended to read as follows:

Penalties for violations by motor carriers.

"8-119. **Penalties for violations.** Any motor carrier, subject to the provisions of this act, or, whenever any such motor carrier is a corporation, any director or officer thereof, or any receiver, trustee, lessee, agent, or persons acting for or employed by such corporation, *or any person, corporation, association, or partnership, or officer, agent or employee thereof, or any broker of property or officer, agent or employee thereof,* who violates or fails to comply with or who procures, aids or abets in the violation of any provision of this act, or who fails to obey, observe, or comply with any lawful order, decision, rule or regulation, direction, demand, or requirement of the board, or any part of provisions thereof, shall be deemed guilty of a misdemeanor and shall, upon conviction thereof, be punished by a fine of not less than twenty-five dollars ($25) nor more than five hundred dollars ($500), or by imprisonment in the county jail for a period of not more than thirty (30) days, or by both such fine and imprisonment."

Approved: February 28, 1967.

CHAPTER 210

An Act Releasing Recipients of Unsolicited Goods From Any Obligation to Return or Pay for the Goods.

Be it enacted by the Legislative Assembly of the State of Montana:

Recipients of unsolicited goods released from obligation to return or pay for goods.

Section 1. Unless otherwise agreed, where unsolicited goods are delivered to a person, he may refuse delivery of the goods or, if the goods are delivered, the person is not bound to return the goods to the sender. If unsolicited goods are either addressed to, or intended for, the recipient, they shall be deemed a gift, and the recipient may use or dispose of them in any manner without obligation to the sender.

Approved: February 28, 1967.

HeinOnline -- 1967 vol. I 612 1967

CHAPTER 211

An Act to Provide for the Use of Anticipated Average Number Belonging (ANB) in the Budgets of New Area Vocational Technical Schools; and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Anticipated average number belonging in the budgets of new area vocational-technical schools.

Section 1. Whenever a new area vocational technical school, to be in operation for the first time in the ensuing year, has been approved by the state board for vocational education prior to the adoption of the preliminary budget by the board of trustees of the high school district, county high school or community college operating the new school, the board of trustees may include in the average number belonging (ANB) for such budget a number anticipated to be the ANB attributable to new vocational students under the age of twenty-one (21) years who have not been included in the current year's enrollment for budget purposes. The anticipated ANB is subject to the approval of the state board for vocational education.

Effective immediately.

Section 2. This act is effective immediately on passage and approval.

Approved: February 28, 1967.

CHAPTER 212

An Act Providing an Accelerated Tax Collection in the Event it Appears That a Delay Will Jeopardize the Collection of Tax Due the State of Montana; Amending Section 84-4946, R.C.M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 84-4946, R.C.M. 1947, is amended to read as follows:

Quarterly payment by employer —exception.

"84-4946. **Quarterly payment by employer—exception.** On or before the last day of the months of April, July, October and January of each calendar year, beginning with the month of October, 1955, every employer subject to the provisions of *sections 84-4943 and 84-4945* shall file a return in such form and containing such information as *may* be *required* by the board, and shall pay therewith the

HeinOnline -- 1967 vol. I 613 1967

amount required by *section 84-4943* to be deducted and withheld by said employer from wages paid during the preceding quarterly period of three (3) months, beginning with wages paid from and after July 1, 1955.

If the total amount of the tax withheld *by an employer* under the provisions of this act upon the wages of all employees of any employer *is* less than ten dollars ($10) in each quarterly period of any year, such employer shall not be required to file the quarterly returns or to make the quarterly payments *as provided in the preceding paragraph,* but in lieu thereof such employer shall, on or before February fifteenth of the year succeeding that in which such wages were paid, file an annual return in such form as *may* be *required* by the board, and shall pay therewith the amount required to be deducted and withheld by *the* said employer from all wages paid during the preceding calendar year.

Provided, however, that if the board has reason to believe that collection of the amount of any tax withheld is in jeopardy, it may proceed as provided for under section 84-4928.1 with respect to jeopardy assessments of income tax."

Amending clause.

Section 2. There is hereby enacted a new section in title 84, chapter 49, Revised Codes of Montana, 1947, which reads as follows:

Jeopardy assessments.

"84-4928.1. **Jeopardy assessments.** If the state board of equalization finds that the assessment or collection of the tax or a deficiency for any taxable year will be jeopardized in whole or in part by delay, it may mail or issue notice of its findings to the taxpayer, together with a demand for immediate payment of the tax or deficiency declared to be in jeopardy, including penalty and accrued interest. In the case of a tax for a current period, the state board of equalization may declare the taxable period of the taxpayer immediately terminated and shall mail or issue notice of its findings to the taxpayer, together with a demand for immediate payment of the tax based on the period declared terminated.

A jeopardy assessment is immediately due and payable and proceedings for collection may be commenced at once."

HeinOnline -- 1967 vol. I 614 1967

Section 3. This act is effective on its passage and approval. Effective immediately.

Approved: February 28, 1967.

CHAPTER 213

An Act Amending Section 15-2022, R.C.M. 1947, Relating to Civil Remedies Afforded Purchasers of Securities Sold in Violation of the Securities Act of Montana.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That section 15-2022, R.C.M. 1947, be amended to read as follows: Amending clause.

"15-2022. **Civil liabilities.** (1) Any person who offers or sells a security in violation of any provisions of sections 7 through 10 [15-2007 through 15-2010] of this chapter or offers or sells a security by means of fraud or misrepresentation is liable to the person buying the security from him, who may sue either at law or in equity to recover the consideration paid for the security, together with interest at six percent (6%) per annum from the date of payment, costs, and reasonable attorneys' fees, less the amount of any income received on the security, upon the tender of the security, or for damages if he no longer owns the security. Damages are the amount that would be recoverable upon a tender less Civil liabilities.

(a) the value of the security when the buyer disposed of it and

(b) interest at six percent (6%) per annum from the date of disposition.

(2) Every person who directly or indirectly controls a seller liable under subsection (1), every partner, officer or director (or person occupying a similar status or performing similar functions) or employee of such a seller, and every broker-dealer or salesman who participates or materially aids in the sale is liable jointly and severally with and to the same extent as the seller, if the non-seller knew or in the exercise of reasonable care could have known, of the existence of the facts by reason of which the liability is alleged to exist. There shall be contribution among the several persons so liable.

HeinOnline -- 1967 vol. I 615 1967

(3) Any tender specified in this section may be made at any time before entry of judgment. A cause of action under this statute survives the death of any person who might have been a plaintiff or a defendant. No person may sue under this section

(a) if the buyer has received a written offer at a time when he owned the security, to refund the consideration paid together with interest at six percent (6%) per annum from the date of payment, less the amount of any income received on the security, and he failed to accept the offer within thirty (30) days of its receipt, or

(b) if the buyer has received a written offer at a time when he did not own the security in the amount that would be recoverable under section 22 (1) [(1) of this section] of this title upon a tender less

(1) the value of the security when the buyer disposed of it and

(2) interest at six percent (6%) per annum from the date of disposition.

(4) No person who has made or engaged in the performance of any contract in violation of any provision of this act or any rule or order hereunder, or who has acquired any purported right under any such contract with knowledge of the facts by reason of which its making or performance was in violation, may base any suit on the contract. Any condition, stipulation, or provision binding any person acquiring any security to waive compliance with any provision of this act or any rule or order hereunder is void as against public policy and in the public interest."

Repealing clause.

Section 2. All acts or parts of acts in conflict herewith are hereby repealed.

Approved: February 28, 1967.

CHAPTER 214

An Act Amending Section 68-1307, R.C.M. 1947, Relating to Allocation of Money to Public Employees' Retirement Fund by Providing That Employer Contributions Shall Be Increased to Three and Five Tenths Percent

HeinOnline -- 1967 vol. I 616 1967

(3.5%) of Total Compensation, to Provide for Increased Funding of the Public Employees' Retirement System.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 68-1307, R.C.M. 1947, is amended to read as follows: Amending clause.

"68-1307. **Allocation of money to public employees' retirement fund—disbursement procedure—contributions under this section, how applied.**

(a) *During* the biennium for which appropriations of money are made by this legislative assembly, there shall be paid monthly by each department, board, commission, bureau, or other agency of the state into the public employees' retirement fund out of moneys appropriated from the state general fund, a sum equal to *three and five tenths percent (3.5%)* of the total compensation paid members of the retirement system. In computing the amount of compensation upon which said *three and five tenths percent (3.5%)* shall be reckoned, there shall be included a sum equal to the amount of compensation which would have been paid to members of the system who elect to continue and do continue their contributions to the system and who are absent with the armed forces of the United States, so long as such absence shall be continued. Allocation of money to P. E. R. S. fund.

(b) Each department, board, commission, bureau or other agency of the state shall certify to the state auditor at the end of each month the total amount of compensation paid members of the retirement system, including that which would have been paid to members who are absent in the armed forces of the United States. The state auditor shall thereupon draw a warrant upon the state treasurer for said *three and five tenths percent (3.5%)* of compensation contributed by the state. Said warrant shall be drawn on funds appropriated to each department, board commission, bureau or other agency of the state to the credit of the public employees' retirement fund and the state treasurer shall deposit the amount thereof in said retirement fund. Disbursement procedure.

(c) Contributions made to the retirement system under this section shall be applied by the board of administration to meet the state's obligations under the system in such order and amount as said board shall determine; pro- Contributions—application.

HeinOnline -- 1967 vol. I 617 1967

vided, however, that said contributions shall be first applied to the liability accruing because of state service rendered during such year and on account of pensions provided for in section 68-901, such amounts to be determined by actuarial valuation as computed by the actuary of the said board.

(d) Each department, board, commission, bureau or other agency of the state under whose supervision there are state employees who are paid either fully or in part from federal funds, but who are not subject to the federal retirement system, shall certify to the state auditor at the end of each month the total amount of compensation paid such employees who are members of the retirement system; and the state auditor shall thereupon draw a warrant upon the state treasurer in the amount of *three and five tenths percent (3.5%)* of the compensation of such employees, regardless of whether such compensation is partly or entirely derived from federal funds. Such warrant shall be drawn on funds appropriated to such department, board, commission, bureau or other agency of the state to the credit of the public employees' retirement fund and the treasurer shall deposit the amount thereof in said retirement fund."

Section 2. All acts or parts of acts in conflict herewith are hereby repealed.

Approved: February 28, 1967.

CHAPTER 215

An Act Amending Section 84-301, R.C.M. 1947, as Amended by Chapter 168, Laws of 1965, Relating to Classification of Property, to Remove the Limitations Upon Renting Portions of Class Eight Property; and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 84-301, R.C.M. 1947, as amended by chapter 168, Laws of 1965, is amended to read as follows:

Classification of property for taxation.

"84-301. **Classification of property for taxation.** For the purpose of taxation the taxable property in the state shall be classified as follows:

HeinOnline -- 1967 vol. I 618 1967

Class One. The annual net proceeds of all mines and mining claims, after deducting only the expenses specified and allowed by section 84-5403; also where the right to enter upon land, to explore or prospect, or dig for oil, gas, coal or mineral is reserved in land by any person or corporation, the surface title to which has passed to another, the assessor and the state and county boards of equalization shall determine the value of the right to enter upon said tract of land for the purpose of digging, exploring, or prospecting for gas, oil, coal or minerals, and the same shall be placed in this classification for the purpose of taxation. Class one.

Class Two. All household goods and furniture, including clocks, musical instruments, sewing machines, wearing apparel of members of the family, and all personal property actually used by the owner for personal and domestic purposes, or for the furnishing or equipment of the family residence; all agricultural and other tools, implements and machinery, gas and other engines and boilers, threshing machines and outfits used therewith, automobiles, motor trucks and other power-driven cars, vehicles of all kinds, boats and all watercraft, harness, saddlery and robes. Class two.

Class Three. Livestock, poultry and the unprocessed products of both; stocks of merchandise of all sorts, together with furniture and fixtures used therewith; and all office or hotel furniture and fixtures. Class three.

Class Four. All land, town and city lots, with improvements, and all trailers affixed to land owned, leased, or under contract of purchase by the trailer owner, manufacturing and mining machinery, fixtures and supplies, except as otherwise provided by the constitution of Montana, and except as such property may be included in Class Five or Class Seven. Class four.

Class Five. (a) All moneys and credits, secured or unsecured, including all state, county, school district and other municipal bonds, warrants and securities, without any deduction or offset; provided, however, that the terms 'moneys and credits' as herein used shall not embrace the moneyed capital employed in the banking business by any banking corporation or individual in this state. Class five.

HeinOnline -- 1967 vol. I 619 1967

(b) All poles, lines, transformers, transformer stations, meters, tools, improvements, machinery and other property used and owned by cooperative rural electrical and cooperative rural telephone associations organized under the laws of Montana.

(c) All unprocessed agricultural products either on the farm or in storage, irrespective of whether said products are owned by the elevator, warehouse or flour mill owner or company storing the same, or any other person whomsoever, and excepting livestock and poultry and the unprocessed products of both.

Class six.

Class Six. Property formerly included in this class is now classified by section 84-308.

Class seven.

Class Seven. All new industrial property. New industrial property shall mean any new industrial plant, including land, buildings, machinery and fixtures which, in the determination of the state board of equalization, is used by a new industry during the first three (3) years of operation not having been assessed prior to July 1, 1961 within the state of Montana. New industry shall mean any person, corporation, firm, partnership, association, or other group which establishes a new plant or plants in this state for the operation of a new industrial endeavor, as distinguished from a mere expansion, reorganization, or merger of an existing industry or industries. Provided, however, that new industrial property shall be limited to industries that manufacture, mill, mine, produce, process or fabricate materials, or do similar work in which capital and labor are employed and in which materials unserviceable in their natural state are extracted, processed or made fit for use or are substantially altered or treated so as to create commercial products or materials; and in no event shall the term new industrial property be included to mean property used by retail or wholesale merchants, commercial services of any type, agriculture, trades or professions. And provided further, that new industrial property shall not be included to mean property which is used or employed in any industrial plant which has been in operation in this state for three (3) years or longer. Any person, corporation, firm, partnership, association or other group seeking to qualify its property for inclusion in this class shall make application to the state board of

HeinOnline -- 1967 vol. I 620 1967

equalization in such manner and form as may be required by said board.

Class Eight. Any improvement on real property valued at not more than fifteen thousand dollars ($15,000), which is owned and actually occupied by a widow, with or without minor or dependent children, or by: Class eight.

(1) a widow 62 years of age or older, whether with or without minor or dependent children, or

(2) a widower 65 years of age or older, whether with or without minor or dependent children, or

(3) a widow with minor or dependent children regardless of age, or

(4) a recipient of retirement benefits not exceeding one hundred fifty dollars ($150) per month, if single, or two hundred fifty dollars ($250) per month if married. Provided such owner and occupier is not gainfully employed to such an extent as would render him or her ineligible for social security benefits, should he or she be otherwise eligible for such benefits, and does not have income from all sources, excluding retirement benefits as mentioned in (4) hereinabove, in excess of one thousand five hundred dollars ($1,500) per year. Provided, further, that one who applies for classification of property under this class must make an affidavit before the county assessor of the county in which said property is located, on a form as may be provided by the state board of equalization supplied without cost to the applicant, as to his income, if applicable, as to his retirement benefits, if applicable, or, as to his marital status, if applicable, and to the fact that he or she actually occupies such improvements with right of the county welfare board to investigate the applicant, on the completion of the form, as to answers given on the form. Provided, further, that the value of said property shall not increase during the life of the recipient of retirement benefits or widow or widower covered under this class.

Class Nine. All property not included in the eight preceding classes." Class nine.

HeinOnline -- 1967 vol. I 621 1967

Effective immediately.

Section 2. This act is effective on its passage and approval.

Approved: March 1, 1967.

CHAPTER 216

An Act Amending Sections 62-505, 62-507, 62-510, 62-511 and 62-514, R.C.M. 1947, Relating to Licensing of Participants in Any Race Meet by the Montana Horse Racing Commission, to Clarify the Scope of This Act as Applied to Illegal Betting, to Clarify the Type of Public Liability Insurance a Licensee is Required to Carry, to Establish Percentage Payments From Gross Receipts of Licensee to Be Paid to the Racing Commission, to Provide for the Payment of Underpayments to the Racing Commission, and to Repeal Sections 84-6502, 84-6503 and 84-6504, R.C.M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 62-505, R.C.M. 1947, is amended to read as follows:

Duties of commission and licensees.

"62-505. **Duties of commission and licensees—license fee.** It shall be the duty of the commission, as soon as possible after its organization, to prepare and promulgate a complete set of rules and regulations to govern race meets and the parimutuel system. Such rules and regulations shall include, but shall not be limited to the following, to wit: definitions, auditing and supervision of the parimutuel system, corrupt practices, supervision, duties and responsibilities of the presiding steward, racing secretary and other racing officials, licensing of all personnel who have any function whatsoever to do with the substantive operation of racing, the establishment of dates for race meets and meetings in the best interests of breeding and racing in the state of Montana, and the veterinary practices and standards which must be observed in connection with race meets. Rules pertaining to medication, testing of horses, examining horses prior to racing, and banning horses from running shall meet the approval of an advisory committee of the Montana veterinary medical association. *Every person who shall participate in any race meet shall be licensed and a fee*

License fee.

HeinOnline -- 1967 vol. I 622 1967

will be charged. The annual license fee for each person required to be licensed shall not exceed ten dollars ($10) which shall be paid to the commission and used for operating expenses of the commission. It shall be the duty of each person holding a license under the authority of the act, and every owner, trainer, jockey, and attendant at any race course in this state, to comply with this act and with all rules and regulations promulgated and all orders issued by the commission."

Section 2. Section 62-507, R.C.M. 1947, is amended to read as follows: Amending clause.

"62-507. **License—application therefor—type and number of races—fee per day—refund—cancellation—hearing.** It shall be unlawful for any person to hold any race meet in this state without having first obtained and having in force and effect a license issued by the commission as in this act provided. Every person making application for a license to hold a race meet, under the provisions of this act, shall file an application with the commission which shall set forth the time, place and number of days such *license* will continue, and such other information as the commission may require. License—application—type and number of races—fee—refund—cancellation—hearing.

No person who has been convicted of any crime involving moral turpitude shall be issued a license of any kind, nor shall any license be issued to any person who has violated the terms or provisions of this act, or any of the rules and regulations of the commission, or who has failed to pay any of the fees, taxes or moneys required under the provisions of this act.

All applications to hold race meets shall be submitted to the commission which shall act upon such applications within thirty (30) days. The commission shall be the sole judge of whether or not the race meet shall be licensed and the number of days the meet shall continue.

It shall be the duty of the commission to require that fairs conducting race meets in conjunction with their regularly scheduled fair shall meet the requirements of the rules and regulations set up by the racing commission prior to granting them their license. Any unexpired license held by any person who violates any of the provisions of this act, pursuant thereto, or who fails to pay to the commission any and all sums required under the provisions of

HeinOnline -- 1967 vol. I 623 1967

this act, shall be subject to cancellation and revocation by the commission. Such cancellation shall be made only after a summary hearing before the commission, of which three (3) days' notice, in writing, shall be given the licensee, specifying the grounds for the proposed cancellation, and at which hearing the licensee shall be given an opportunity to be heard in opposition to the proposed cancellation."

Amending clause.

Section 3. Section 62-510, R.C.M. 1947, is amended to read as follows:

Public liability insurance.

"62-510. **Public liability insurance.** For the protection of the public, and all members thereof, the exhibitors and visitors, every person licensed to conduct a race meet under the provisions of this act shall carry public liability insurance in an amount and form of contract *to be approved by the commission.*"

Amending clause.

Section 4. Section 62-511, R.C.M. 1947, is amended to read as follows:

Parimutuel betting—other betting illegal.

"62-511. **Parimutuel betting—other betting illegal.** *It shall be unlawful to make or report or record or register any bet or wager upon the result of any contest of speed or skill or endurance of any animal, whether such contest is held within or without the state of Montana, except as herein provided.*

Any licensee conducting a race meet under this act may provide a place or places in the race meet grounds or enclosure at which such licensee may conduct or supervise the use of the parimutuel system by patrons on the result of the races conducted by such licensee at such race meet, and such parimutuel system conducted at such race meet shall not under any circumstances, if conducted under the provisions of this act and in conformity thereto and to the rules and regulations of the commission, to be held or construed to be unlawful, other statutes of this state to the contrary notwithstanding.

It shall be unlawful to conduct pool selling, bookmaking, or to circulate handbooks, or to bet or wager on a race of any licensed race meet, other than by the parimutuel system, and in the race meet grounds or enclosure where the race is held, and it shall further be unlawful to permit any minor to use the parimutuel system."

HeinOnline -- 1967 vol. I 624 1967

Section 5. Section 62-514, R.C.M. 1947, is amended to read as follows: Amending clause.

"62-514. *Gross receipts — Commission's percentage — collection and allocation. The licensee shall pay to the commission one percent (1%) of all gross receipts of each day's parimutuel betting at each race meet, which sums shall be paid to the commission within five (5) days after receipt by the licensee. At the end of each race meeting it shall be the duty of the licensee to prepare a report to the commission showing the amount of the overpayments and underpayments. Should the report show the underpayments to be in excess of the overpayments such balance shall be paid to the commission. All monies paid to or received by the commission may be expended in payment of the expenses incurred in carrying out the provisions of this act. No expenditures shall be made until the commission has audited and approved the claim.*" Gross receipts—commission's percentage—collection and allocation.

Section 6. Sections 84-6502, 84-6503 and 84-6504, R.C.M. 1947, and all acts and parts of acts in conflict herewith are hereby repealed. Repealing clause.

Section 7. This act will be effective on passage and approval. Effective immediately.

Approved: March 1, 1967.

CHAPTER 217

An Act Providing for the Determination by the Board of Equalization of the State of Montana of Whether a Bidder on Public Contracts is a "Resident" Within the Meaning of Sections 82-1924 and 82-1925, Revised Codes of Montana, 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. It shall be the duty of the state board of equalization of the state of Montana, at the time that a public contractor makes application for a license under the provisions of chapter 35, title 84 of this code, to determine whether or not such contractor is a "resident" of the state of Montana within the meaning of sections 82-1924 and 82-1925. The board shall endorse upon the contractor's license whether or not such contractor is a Determination whether contractor is resident.

HeinOnline -- 1967 vol. I 625 1967

"resident" as aforesaid. If a contractor is not a "resident" at the time such license is issued, but thereafter qualifies as such, he may apply to the board of equalization for a redetermination of his residency, and, if found to qualify as a "resident", the board shall endorse such fact upon his license, together with the date of such qualification. It shall be the duty of the state board of equalization, upon written request of any board, commission, officer or individual charged by law with the responsibility for the execution of any contract subject to the provisions of section 82-1924 on behalf of the state, board, commission, political subdivision, agency, school district or public corporation of the state of Montana, to furnish a list of contractors who have qualified as "residents", as aforesaid, to such requesting body. The determination of the board of equalization that a public contractor is or is not a "resident" within the meaning of sections 82-1924 and 82-1925 shall be prima facie evidence of such fact.

Duty of board.

Severability.

Section 2. If any part of this act shall be held to be unconstitutional or invalid by a court of competent jurisdiction, it is the intent of the legislative assembly that all valid parts that are severable from the invalid part remain in effect.

Approved: March 1, 1967.

CHAPTER 218

An Act to Amend Section 25-232, Revised Codes of Montana, 1947, Section 25-233, Revised Codes of Montana, 1947, and Section 82-503, Revised Codes of Montana, 1947, Increasing Certain Fees to Be Collected by the Clerks of the District and Supreme Courts and Providing for the Disposition of Such Said Fees as Are Collected Under Said Sections 25-232, 25-233 and 82-503, and Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 25-232, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

HeinOnline -- 1967 vol. I 626 1967

"25-232. **Fees of clerk of district court.** At the commencement of each action or proceeding, the clerk must collect from the plaintiff the sum of *ten* dollars *($10)*, and for filing a complaint in intervention the clerk must collect from the intervenor the sum of *ten* dollars *($10)*; Fees of clerk of district court.

And the defendant, on his appearance, must pay the sum of *five dollars ($5)* (which includes all the fees to be paid up to the entry of judgment).

On the entry of judgment in favor of plaintiff, he must pay the additional sum of *five dollars ($5)*;

And if in favor of defendant, the defendant must pay the sum of *ten* dollars *($10)* (which includes all the clerk's costs for all services rendered in any action or proceeding, except issuing execution or order of sale, and the fees for transcript on appeal. If the action is dismissed, no fee for the entry of judgment need be paid, unless the party desires the entry of such judgment).

For filing the papers and transcript on appeal from a justice or other inferior court or other tribunal, the party appealing must pay the sum of *ten* dollars *($10)* (which includes all costs up to the entry of judgment).

For entry of judgment in favor of party appealing, he must pay the sum of *five dollars ($5)*.

For entry of judgment in favor of the other party, or respondent, he must pay the sum of *ten* dollars *($10)* (which includes all the clerk's costs for all services rendered on such appeal).

For certifying transcripts on appeal, where the same are not prepared by him, five dollars *($5)*, and in addition thereto, five cents *($.05)* per page for each page in excess of two hundred *(200)* pages.

And where he prepares such transcript, in addition thereto, per folio, fifteen cents *($.15)*.

For preparing copies of papers in his office, per folio, fifteen cents *($.15)*, when certified to, in addition thereto, fifty cents *($.50)* for certificate and seal.

For certificate with seal, fifty cents *($.50)*.

For oath and jurat, with seal, fifty cents *($.50)*.

For administering oath, twenty-five cents *($.25)*.

HeinOnline -- 1967 vol. I 627 1967

For taking depositions, per folio, twenty cents *($.20)*.

For filing and docketing transcript of judgment from all other courts and issuing execution thereon, two dollars and fifty cents *($2.50)*.

For issuing execution and all services connected therewith, one dollar *($1)*.

For issuing execution or order of sale on foreclosure of liens, one dollar *($1)*.

And in addition per folio, twenty cents *($.20)*.

For searching records of files for each year, except for suitors or their attorneys, twenty-five cents *($.25)*.

For transmission of records or files or transfer of cases to other courts, two dollars and fifty cents *($2.50)*.

For filing and entering papers on transfer from other courts, five dollars *($5)*.

For making, acknowledging, and procuring the signature of judge to deed of lot in townsite, four dollars *($4)*.

For issuing a marriage license, *five* dollars *($5)*.

One-quarter (¼) of all fees collected by said clerk of the district court must be paid to the secretary of the public employees' retirement system board to be credited to the judges' retirement fund.

Amending clause.

Section 2. That section 25-233, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Fees of clerk in probate proceedings.

"25-233. **Fees of clerk in probate proceedings.** At the time of filing the petition for letters testamentary, of administration or guardianship, the clerk must collect from the petitioner the sum of *ten* dollars *($10)*.

For admitting a will to probate and all services connected therewith, in addition to the above, there must be paid to the clerk the sum of *ten* dollars *($10)*.

If a will is contested, the contestant must pay to the clerk, on filing his grounds of opposition, the sum of *ten* dollars *($10)*.

And on the entry of judgment thereon, the prevailing party must pay the sum of *five dollars ($5)*.

HeinOnline -- 1967 vol. I 628 1967

On filing a petition to determine heirship or title to an estate, the petitioner must pay to the clerk the sum of *ten* dollars *($10)*.

On entry of judgment thereon, the prevailing party must pay the sum of *five dollars ($5)*.

One-quarter (¼) of all fees collected by said clerk of the district court must be paid to the secretary of the public employees' retirement system board to be credited to the judges' retirement fund."

Section 3. That section 82-503, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows: Amending clause.

"82-503. **Fees.** He must collect in advance the following fees: For filing the transcript on appeal, in each civil case appealed to the supreme court, *twenty dollars ($20)* payable by the appellant, and *ten dollars ($10)* payable by respondent, at the time of his appearance, in full for all services rendered in each case, up to the remittitur to the court below; for filing petition for any writ, *twenty dollars ($20),* in full for all services rendered in each cause; for certificate of admission as attorney and counselor, five dollars ($5); for making transcripts, copies of papers or record, fifteen cents *($.15)* per folio; for comparing any document requiring a certificate, five cents *($.05)* per folio; for each certificate under seal, one dollar ($1). Fees.

Three-fourths (¾) of all fees collected by him must be paid into the state treasury, which shall be credited to the credit of the general fund, *and one-fourth (¼) of all fees collected by him shall be paid to the secretary of the public employees' retirement system board to be credited to the judges' retirement fund."*

This act shall be in full force and effect from and after its passage and approval. Effective immediately.

Approved: March 1, 1967.

CHAPTER 219

An Act to Amend Section 80-1905, Revised Codes of Montana, 1947, Relating to Good Time Allowances for State Prison Inmates.

HeinOnline -- 1967 vol. I 629 1967

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 80-1905, Revised Codes of Montana, 1947, is amended to read as follows:

Good time allowance—forfeiture—probation and parole—application of prior law.

"80-1905. **Good time allowance—forfeiture—probationers and parolees—application of prior law.**

(1) The state department of institutions shall adopt rules and regulations providing for the granting of good time allowance for inmates employed in any prison work or activity. The good time allowance shall operate as a credit on his sentence as imposed by the court, conditioned upon the inmate's good behavior and compliance with the rules and regulations made by the department or the warden. The rules adopted by the department may not grant good time allowance to exceed:

(a) ten (10) days per month for inmates assigned within the confines of the walls of the prison;

(b) thirteen (13) days per month for those inmates placed outside the confines of the walls of the prison;

(c) fifteen (15) days per month for those inmates who have been assigned outside the walls of the prison for an uninterrupted period of one *(1)* year on a minimum status.

(d) thirteen (13) days per month for those inmates enrolled in school inside the walls who successfully complete the course of study or who while so enrolled are released from prison by discharge or parole.

(e) ten (10) days for each pint of blood donated by an inmate.

(2) In the event of an attempted escape by an inmate, or a violation of the rules and regulations prescribed by the department or warden, the inmate may be punished by the forfeiture of part or all good time allowances. The warden of the state prison shall advise the department of institutions of any attempted escape or violation of rules and regulations on the part of the inmate. Any punishment by forfeiture of good time allowance must be approved by the department.

HeinOnline -- 1967 vol. I 630 1967

(3) This section applies to all persons who are on probation or parole or eligible to be placed on probation or parole. No person convicted and sentenced before April 1, 1955, shall have his good time allowance reduced as a result of this section."

Approved: March 1, 1967.

CHAPTER 220

An Act to Amend Sections 23-2502 and 23-2506, R.C.M. 1947, Relating to Voting Machines and Authorizing Counties, Cities and Towns to Use Electronic Voting Systems Under Certain Conditions.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 23-2502, R.C.M. 1947, is amended to read as follows: Amending clause.

"23-2502. **Definition of terms.** As used in this act, unless otherwise specified: Definitions.

(a) 'Automatic tabulating equipment' includes apparatus necessary to automatically examine and count votes as designated on ballots and data processing machines which can be used for counting ballots and tabulating results. "Automatic tabulating equipment."

(b) 'Ballot card' means a ballot which is voted by the process of punching. "Ballot card."

(c) 'Ballot labels' means the cards, papers, booklet, pages or other material containing the names of offices and candidates and statements of measures to be voted on. "Ballot labels."

(d) 'Ballot' may include ballot cards, ballot labels and paper ballots. "Ballot."

(e) 'Counting location' means a location selected by the county clerk and recorder or city clerk for the automatic processing or counting, or both, of ballots *which may be in the same county or in another county.* "Counting location."

(f) 'Electronic voting system' means a system of casting votes by use of marking devices and tabulating ballots employing automatic tabulating equipment or data processing equipment. "Electronic voting system."

(g) 'Marking device' means either an apparatus in which ballots or ballot cards are inserted and used in "Marking device."

HeinOnline -- 1967 vol. I 631 1967

connection with a punch apparatus for the piercing of ballots by the voter or any approved device for marking a paper ballot with ink or other substance which will enable the ballot to be tabulated by means of automatic tabulating equipment."

Amending clause.

Section 2. Section 23-2506, R.C.M. 1947, is amended to read as follows:

Rules and regulations—specifications for devices and equipment.

"23-2506. **Rules and regulations—specifications for devices and equipment.**

(a) The secretary of state may promulgate rules for the administration of this section, and shall approve the marking devices and automatic tabulating equipment used in electronic voting systems, *provided, however, that the governing body of any county, city or town is authorized to adopt, experiment with or abandon any electronic voting system which has been used for at least two (2) successive elections in a state other than Montana without the approval of the secretary of state if the governing body of the county, city or town finds that the marking devices and automatic tabulating equipment proposed to be used fulfill the requirements of subsection (b).*

Specific requirements of equipment.

(b) No marking device or automatic tabulating equipment shall be approved unless it fulfills the following requirements:

(1) It shall permit and require voting in absolute secrecy.

(2) It shall permit each elector to vote at any election for all persons and offices for whom and for which he is lawfully entitled to vote, and no others; to vote for as many persons for an office as he is entitled to vote for; to vote for or against any question upon which he is entitled to vote; and to vote, where applicable, for all candidates of one *(1)* party or to vote a split ticket as he desires.

(3) It shall permit each elector, at presidential elections, by one *(1)* punch or mark to vote for the candidates of that party for presidential elector as a group.

(4) It shall comply with all other requirements of the election laws so far as they are applicable."

Approved: March 1, 1967.

HeinOnline -- 1967 vol. I 632 1967

CHAPTER 221

An Act Amending Section 93-1906, R.C.M. 1947, Increasing the Annual Salaries of Court Reporters From Seven Thousand Eight Hundred Dollars ($7,800) to Eight Thousand Eight Hundred Dollars ($8,800).

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 93-1906, R.C.M. 1947, is amended to read as follows: Amending clause.

"93-1906. **Salary and expenses of reporter—apportionment.** Every reporter appointed under the provisions of this chapter receives an annual salary of *eight thousand eight hundred dollars ($8,800)* and no other compensation except as provided in section 93-1904, provided, however, that all transcripts and bills of exceptions required by the county shall be furnished without cost, payable in monthly installments out of the general funds of the counties comprising the district for which he is appointed, according and in proportion to the number of civil and criminal actions entered and commenced in the district courts of such counties respectively in the preceding year; and it shall be the duty of the judge of such district, on the first day of January of each year, or as soon thereafter as may be, to apportion the amount of such salary to be paid by each county in his district on the basis aforesaid. The reporter is allowed, in addition to the salary and fees above provided, in judicial districts comprising more than one (1) county, his actual and necessary expenses of transportation and living when he goes on official business to a county of his judicial district other than the county in which he resides, from the time he leaves his place of residence until he returns thereto, said expenses to be apportioned and payable in the same way as the salary." Salary and expenses of reporter—apportionment.

Approved: March 1, 1967.

CHAPTER 222

An Act Amending Section 68-701, R.C.M. 1947, to Permit Payment of Accumulated Contributions From the Publice Employees' Retirement Fund to Members Terminating State Service After Ten (10) Years of Service, and to Renumber Certain Subdivisions Thereof as

HeinOnline -- 1967 vol. I 633 1967

Additional Sections of the Revised Codes of Montana, 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 68-701, R.C.M. 1947, is amended to read as follows:

Management of retirement fund.

"68-701. **Management of retirement fund.** The retirement fund shall be managed as follows:

(a) The board of administration shall have exclusive control of the administration of said fund except as otherwise provided.

(b) The said fund shall be invested by the state board of land commissioners as part of the long term investment fund.

(c) The board of administration shall deposit monthly in the state treasury all amounts received by it as provided in this section and section 68-1307.

(d) The state treasurer shall be custodian of the retirement fund, subject to the exclusive control of the board of administration as to the administration thereof and the state board of land commissioners as to the investment thereof. All payments from said fund shall be made by him only upon vouchers signed by two (2) board members designated by the board of administration. A duly attested copy of a resolution of the board of administration designating such persons and bearing on its face specimen signatures of such persons shall be filed with the treasurer as his authority for making payments upon such vouchers. No voucher shall be drawn unless it has previously been authorized by resolution of the board of administration.

(e) Interest earned on any cash deposit in a bank by the state treasurer and income on other assets constituting a part of the said fund shall be paid into said fund as received. Income, of whatever nature, earned on the retirement fund during any fiscal year, in excess of the interest credited to contributions during said year shall be retained in said fund as a reserve against deficiencies in interest earned in other years, losses under investments, and other contingencies.

HeinOnline -- 1967 vol. I 634 1967

(f) Except as herein provided, no member and no employee of the board of administration shall have any interest direct, or indirect, in the making of any investment, or in the gains or profits accruing therefrom. And no member or employee of the said board directly or indirectly, for himself or as an agent or partner of others, shall borrow any of its funds or deposits, nor shall any such member or employee in any manner use the same except to make such current and necessary payments as are authorized by said board; nor shall any member or employee of said board become an endorser or surety as to, or in any manner an obligor for investments by the board.

Normal rates of contribution.

68-702. The normal rates of contribution of members shall be based on sex and the age at the nearest birthday at the time of entrance into the retirement system. The normal rates of contribution shall be such as will provide an average annuity at age sixty-five (65) equal to one one hundred-fortieth (1/140) of the final compensation of members, according to the tables adopted by the board, for each year of service rendered after entering the system. Nothing in this section shall prevent the adoption of one (1) schedule of rates for males and one (1) schedule for females.

Member's annuity.

68-703. The actual amount of annuity receivable by any member upon retirement shall be the actuarial equivalent of his accumulated contributions, as provided in subdivisions (a) and (k) of section 68-1307.

Certification of contribution rates.

68-704. The board of administration shall certify to the head of each office or department of the state and to the registrar of the university the normal rate of contribution as provided in this act for each member in such office, department, or the university, respectively. The head of each office or department of the state shall apply such rate of contribution to the compensation of each member, and shall certify to the state auditor on each and every payroll the amount to be contributed and shall furnish immediately to the board of administration a copy of each and every such payroll; and each such amount shall be deducted by the head of each office or department and shall be remitted to the board. The registrar of the university shall apply the rate of contribution certified to him by the board to the compensation of each member employed by the university and the contributions so deter-

HeinOnline -- 1967 vol. I 635 1967

mined shall be deducted by the registrar of the university from the compensation of each such member; each such amount shall be remitted to the board and the registrar of the university shall furnish to the board a copy of each and every salary roll and payroll from which such amounts have been deducted. Each contribution deducted and remitted to the board shall be credited by the board, together with regular interest, to an individual account of the member for whom the contribution was made. Payment of salaries or wages less such contribution shall be full and complete discharge and acquittance of all claims and demands whatsoever for the service rendered by members during the period covered by such payment, except their claims to the benefits to which they may be entitled under the provisions of this act.

68-705. The board of administration shall certify to the city clerk, or other officer designated by the legislative body, of each contracting city the rate of contribution as provided in this act for each member included under the retirement system respectively. The city clerk, or other officer, shall apply the rate of contribution certified to him by the board to the compensation of each member included in the retirement system and the contribution so determined shall be deducted by the city clerk, or other officer, from the compensation of each such member; each such amount shall be remitted to the board and the city clerk or other officer, shall furnish to the board a copy of each and every salary roll and payroll from which such amounts have been deducted. Each contribution deducted and remitted to the board shall be credited by the board, together with regular interest, to an individual account of the member for whom the contribution was made. Payment of salaries or wages less such contribution shall be full and complete discharge and acquittance of all claims to the benefits to which they may be entitled under the provisions of this act.

Excess contribution rates.

68-706. Subject to the rules and regulations to be established and promulgated by the board of administration, any member may elect to contribute at rates in excess of those provided for in *sections 68-704 and 68-705,* for the purpose of providing additional benefits, but the exercise of this privilege by a member shall not place on the state or contracting city any additional financial obligation. The provisions of subdivisions (f) and (g) of section 68-203 shall

HeinOnline -- 1967 vol. I 636 1967

apply also to additional contributions. The board, upon application shall furnish to such member information concerning the nature and amount of additional benefits to be provided by such additional contributions.

Annual membership fee.

68-707. In addition to the contributions hereinbefore provided to be paid by employees who are members of the retirement system created by this act, every such employee shall pay an annual membership fee of one dollar ($1) which amount, together with other moneys appropriated for that purpose, shall be used for the support of the board of administration.

Termination of service by member having less than ten years service —more than ten years service.

68-708. Should the state service of a member *with less than ten (10) years of service* be discontinued otherwise than by death or retirement, he shall after the date of discontinuance, be paid such part of his contributions as he demands. The board may, in its discretion, withhold for not more than one (1) year after a member last rendered state service, all or part of his contributions if after a previous discontinuance of state service he withdraw all or part of his contributions and failed to redeposit such withdrawn amount in the retirement fund as provided in *section 68-709.*

Any member with ten (10) or more years of service, whose service is discontinued otherwise than by death or retirement, shall have the right to elect within ninety (90) days after such termination of service, whether to allow his accumulated contributions to remain in the retirement fund *or to withdraw his accumulated contributions.* Upon the qualification for retirement by reason of age or disability of a member *with ten (10) or more years of service* who has elected to allow his accumulated contributions to remain in the retirement fund *after his service has been discontinued otherwise than by death or retirement,* he shall receive a retirement allowance *computed* in accordance with the provisions of section 68-901.

Redeposit of retirement contribution.

68-709. Any member may redeposit in the retirement fund, in one *(1)* sum or in not to exceed twelve (12) monthly or twenty-four (24) semimonthly payments, an amount equal to that which he withdraw therefrom at the last termination of his membership, subject to minimum monthly or semimonthly payments as fixed by the board of administration. If a member, upon reentering the retirement system after a termination of his membership,

HeinOnline -- 1967 vol. I 637 1967

does not elect to make or, having so elected, subsequently does not make such redeposit, he shall reenter as a new member without credit for any service except the prior service credited to him before said termination, and the rate of his contribution for future years shall be the normal rate provided for in this act at his age of reentrance; otherwise his rate of contribution for future years shall be the same as his rate prior to the last termination of his membership, and his membership shall be the same as if unbroken by such last termination. Regardless of whether such redeposit is made, the documents held by the retirement system as executed by said member prior to termination of membership shall be held by the system for the same purposes as prior to said termination, and beneficiaries nominated in such documents shall continue unchanged until changed as provided herein.

Transfer of savings account to pension accumulation fund.

68-710. The board may in its discretion transfer the savings account of a member to the pension accumulation fund if the account has been dormant for a period of ten (10) years provided that no right of the member shall be jeopardized by such transfer and the savings account shall be transferred to the member's name upon subsequent reentry to membership."

Intent to renumber subdivisions as sections.

Section 2. It is the intent of the legislative assembly that subdivisions (g), (h), (i), (j), (k), (l), (m), (n) and (o) of section 68-701, R.C.M. 1947, be renumbered as sections 68-702, 68-703, 68-704, 68-705, 68-706, 68-707, 68-708, 68-709, and 68-710 of the Revised Codes of Montana, 1947, respectively, as hereinabove in section 1 of this act set forth.

Approved: March 1, 1967.

CHAPTER 223

An Act Amending Section 16-912, R.C.M. 1947, to Provide for an Increase in the Amount of the Annual Salary and for Mileage Payments to County Commissioners in Counties of the First, Second, Third, and Fourth Class; and to Provide for an Increase in Mileage Payments from Eight Cents (8¢) to Nine Cents (9¢) Per Mile and to Provide for Increased Payments from Twenty Dollars ($20) to Twenty-five Dollars ($25).

HeinOnline -- 1967 vol. I 638 1967

Per Day Compensation for Performing Duties for County Commissioners in Counties of Other Than the First, Second, Third and Fourth Class.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 16-912, R.C.M. 1947, is amended to read as follows: Amending clause.

"16-912. **Compensation of members of board.** *(1)* Each member of the board of county commissioners in counties of the first, second, third, and fourth class, shall receive an annual salary as hereinafter set forth: Compensation of board members.

First class	*$6,500*
Second class	*$6,300*
Third class	*$6,100*
Fourth class	*$6,000*

In addition, each member of the board of county commissioners in counties of the first, second, third and fourth class shall receive nine cents ($.09) per mile for the distance necessarily traveled in going to and returning from the county seat and his place of residence each day that such trip is actually made, and while engaged in the performance of his official duties.

(2) Each member of the board of county commissioners in all other counties is entitled to *twenty-five dollars ($25)* per day for each day's attendance on the sessions of the board, and *nine cents ($.09)* per mile for the distance necessarily traveled in going to and returning from the county seat and his place of residence each day that such trip is actually made, and while engaged in the performance of his official duties, and no other compensation must be allowed.

(3) Salaries of the members of the board of county commissioners of a county shall not be changed during the entire term for which such members are elected, regardless of any change in the classification of the county during such term. If a vacancy occurs on the board of county commissioners, the person who is appointed and/or elected to fill the unexpired term shall receive the same salary as the person vacating the office." Limitation of salary change.

Approved: March 1, 1967.

HeinOnline -- 1967 vol. I 639 1967

CHAPTER 224

An Act Amending Section 11-725, R.C.M. 1947, Increasing the Salaries of Mayors and Aldermen.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 11-725, R.C.M. 1947, is amended to read as follows:

Salaries and qualifications of mayor and aldermen.

"11-725. **Salaries and qualifications of mayor and aldermen.** The annual salary of a mayor must be fixed by ordinance, and in a city *of the first class must not exceed ten thousand dollars ($10,000);* and the annual salary of the mayor of a city of the second class must not exceed *four thousand five hundred dollars ($4,500);* and the annual salary of the mayor of a city of the third class must not exceed *three thousand six hundred dollars ($3,600).*

The salary of aldermen must be fixed by ordinance, and each alderman in a city of the first class may be allowed and paid *a salary* not exceeding *one hundred fifty dollars ($150) per month;* and aldermen of cities of the second and third class may be allowed and paid *a salary* not exceeding *seventy-five dollars ($75) per month.* No person shall be elected to the office of mayor or alderman in any city or town who is not a resident and freeholder within the limits of the city or town."

Effective immediately.

Section 2. This act shall become effective upon passage and approval.

Approved: March 1, 1967.

CHAPTER 225

An Act to Amend Section 75-1630, R.C.M. 1947, to Provide that With the Exception of Certain Situations, Public Elementary School Children Must Obtain Written Consent of the Board of Trustees of the District in Which They Reside, the Written Consent of the Board of Trustees in the District in Which they Propose to Attend School, as Well as the Written Consent of the Various County Superintendents of Schools Concerned Before They Are Permitted to Attend a Public Elementary School in Another District Whether Within or Without the County in Which the Children Reside.

HeinOnline -- 1967 vol. I 640 1967

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 75-1630, R.C.M. 1947, is amended to read as follows: Amending clause.

"75-1630. **Transfer of funds.** Children may attend public elementary schools in districts in the county outside of the district in which they reside, or in a district in an adjoining county, or in a district in a county in another state when the district in such other state adjoins the district in which they reside, or is situated in a county in such other state, which county adjoins the state of Montana, when written permission is secured from *the board of trustees of the district in which they reside,* the board of trustees of the district in which they are to attend school, and when written permission has been given by the county superintendents of schools of the *counties concerned.* Permission must be granted for such attendance in another district within or without the county of such children's residence when the following conditions exist: Transfer of funds. Permission for attendance in another district —when.

1. When a child lives less than three (3) miles from a public elementary school in another district or county and three (3) or more miles from a public elementary school in the district or county of his own residence.

2. When a child resides more than three (3) miles distance from a public elementary school within his own district or county and no transportation is furnished by the home district or county to such school.

3. When regular bus transportation is furnished by a public elementary school in another district or county and his own district or county does not furnish transportation.

Such distances mentioned above shall be measured from the point where the private family dwelling house is situated to the schoolhouse by the shortest traveled route. Measure of distance.

4. When a family has children who must attend high school outside of its own district or county and such family also has elementary school children who can more conveniently attend the elementary grades in the same district where the high school is located, provided such elementary children live more than three (3) miles from the home school or that a parent must move to town to provide high school education for his children.

HeinOnline -- 1967 vol. I 641 1967

5. When the county superintendent of schools of the county where the child resides, for any other reason than stated above shall approve the attendance of any child in a public elementary school in another county. In approving such attendance in another district or county, the county superintendent shall take in consideration such items as distance to school, road conditions, trading center of parents, opportunity to live with relatives, dormitory facilities, living conditions, transportation and type of educational program.

Disapproval of attendance.

If the board of trustees of the district to be attended shall find that, due to insufficient room and overcrowding the accreditation of the receiving school in the ensuing school year would be adversely affected by acceptance of a transfer pupil from another school district, the board may disapprove the attendance provided it mails written notice of disapproval to the parents or guardian of the pupil within fifteen (15) days after written notification by the county superintendent of the proposed attendance.

Residence.

In the event that the residence, for determining tuition obligations, of such child is in dispute, then the rules for determining residence as outlined in section 83-303, shall be used by the county superintendent of the county of the child's residence, or in case the dispute is between districts of two *(2)* counties by the county superintendents of such counties, to finally determine the residence of such child.

Payment of tuition—rates.

When approval of attendance in another district within or without the county has been granted, the district in which such child resides shall pay to the school district where such child attends, an amount based on the following tuition rates: in the case of attendance at an elementary school with an average number belonging up to one hundred (100), the tuition to be paid shall be two hundred seventy-five dollars ($275); where the school attended has an average number belonging between one hundred one (101) and three hundred (300), the tuition shall be two hundred fifty dollars ($250); and where the school attended has an average number belonging over three hundred (300), the tuition rate shall be two hundred twenty-five dollars ($225) per pupil.

HeinOnline -- 1967 vol. I 642 1967

Budgeting.

It is hereby made the duty of the board of school budget supervisors in approving the budgets, to include therein an item to care for the above tuition, if this has not already been done by the board of trustees in preparing the budget for the district.

Applications.

Applications for permission to attend a school outside the district or county shall be made to the county superintendent before July 1, previous to the year of attendance, excepting in those cases where circumstances prevent such application. These applications are to be approved or disapproved, except as otherwise provided by law, by the county superintendents *concerned, by the trustees of the district in which the pupil resides,* and by the trustees of the district the pupil wishes to attend. However, nothing in this section shall be so construed as to deny a parent whose children cannot qualify under this section the right to send his children, at his own expense, to a public elementary school of any other district willing to accept them. Such parent must pay to the receiving district, tuition in the amount set forth herein.

Reimbursement.

At the close of the school term of the year in which such pupil attends this school outside the district, the clerk of such district shall transmit to the county superintendent the names of pupils from other districts attending his school, together with the number of days attended. This information in turn shall be transmitted by the county superintendent to the districts affected and such district shall reimburse the school attended for all pupils of its district; provided such pupil has attended at least forty (40) days. This amount of reimbursement shall be made an item of the budget for the coming year and reimbursement shall be made to the district of attendance out of the first funds available to the budget; provided, however, that the trustees of the district receiving pupils from another district may waive any or all tuition; provided, however, that such waiver must apply equally to all pupils, and provided, further, that the amount of this tuition shall not reduce the foundation program of the school paying it, but shall be an additional item added to it to be raised without a vote of the people; and provided further, that the district receiving the tuition may apply it against the needs of the budget after the regular district, county and state aid have been received.

HeinOnline -- 1967 vol. I 643 1967

Amount of tuition.

In the case of a district which does not operate a school, the amount of this tuition can be raised without a vote of the people if the five (5) mill district levy and other local revenue is insufficient to raise the amount needed.

Eligibility.

It shall be the responsibility of the superintendent of schools and the boards of trustees of the public elementary schools *sending and* receiving the pupils and *the* county superintendents of *the* schools *concerned* to determine and agree upon eligibility of pupils transferring under the provisions of this act; provided, that an appeal may be taken to the state superintendent of public instruction.

Attendance in adjoining states.

Whenever elementary pupils residing in Montana are approved for attendance in an elementary school in an adjoining state; and whenever elementary pupils in an adjoining state are approved for attendance in an elementary school in Montana, the above schedule of tuition payments may be waived and payments arrived at on a reciprocal basis with the state involved. The state superintendent of public instruction is hereby authorized to negotiate with the state superintendent of public instruction of each state involved in arriving at tuition payments, which may either be on a per pupil basis of a flat amount or on an actual cost basis.

Dependent and neglected children.

Whenever a child has been declared by a district court in the state of Montana a dependent and neglected child as defined in section 10-501, or a juvenile delinquent child, as defined in section 10-602, and has been ordered to be placed in a duly licensed child care institution in the state of Montana, which institution is approved by the state department of public welfare, and as a result of such order such child is required to attend a public elementary school in a school district outside of the district in which he resides, the district receiving such pupil shall be entitled to receive tuition on the basis of the schedule established in this act, provided that the geographical relationship of the receiving district to the district of residence shall be of no consequence. All other provisions of this section, excepting solely the geographical relationship of the districts, shall be applicable to the payment of tuition for the education of such child."

Approved: March 1, 1967.

HeinOnline -- 1967 vol. I 644 1967

CHAPTER 226

An Act to Amend the Uniform Disposition of Unclaimed Property Act, Adding Money Orders and Business Associations to the Coverage of the Act, Extending the Term for Abandonment and the Method of Reporting for Travelers' Checks; Amending Sections 67-2202, 67-2211, 67-2212 and 67-2213, R.C.M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 67-2202, R.C.M. 1947, is amended to read as follows: Amending clause.

"67-2202. **Property held by banking or financial organizations** *or by business associations.* The following property held or owing by a banking or financial organization *or by a business association* is presumed abandoned: Property presumed abandoned when held by banking or financial organization or business association.

(a) Any demand, savings, or matured time deposit made in this state with a banking organization, together with any interest or dividend thereon, excluding any charges that may lawfully be withheld, unless the owner has, within seven (7) years:

(1) Increased or decreased the amount of the deposit, or presented the passbook or other similar evidence of the deposit for the crediting of interest; or

(2) Corresponded in writing with the banking organization concerning the deposit; or

(3) Otherwise indicated an interest in the deposit as evidenced by a memorandum on file with the banking organization.

(b) Any funds paid in this state toward the purchase of shares or other interest in a financial organization, or any deposit made therewith in this state, and any interest or dividends thereon, excluding any charges that may lawfully be withheld, unless the owner has within seven (7) years:

(1) Increased or decreased the amount of the funds or deposit, or presented an appropriate record for the crediting of interest or dividends; or

(2) Corresponded in writing with the financial organization concerning the funds or deposit; or

HeinOnline -- 1967 vol. I 645 1967

(3) Otherwise indicated an interest in the funds or deposit as evidenced by a memorandum on file with the financial organization.

(c) Any sum payable on checks certified in this state or on written instruments issued in this state on which a banking or financial organization *or business association* is directly liable, including, by way of illustration but not of limitation, certificates of deposit, drafts, *money orders,* and travelers' checks, that, *with the exception of travelers' checks,* has been outstanding for more than seven (7) years from the date it was payable, or from the date of its issuance if payable on demand, *or, in the case of travelers' checks, that has been outstanding for more than fifteen (15) years from the date of its issuance,* unless the owner has within seven (7) years, *or within fifteen (15) years in the case of travelers' checks,* corresponded in writing with the banking or financial organization *or business association* concerning it, or otherwise indicated an interest as evidenced by a memorandum on file with the banking or financial organization *or business association.*

(d) Any funds or other personal property, tangible or intangible, removed from a safe deposit box or any other safekeeping repository or agency or collateral deposit box in this state on which the lease or rental period has expired due to nonpayment of rental charges or other reason, or any surplus amounts arising from the sale thereof pursuant to law, that have been unclaimed by the owner for more than seven (7) years from the date on which the lease or rental period expired."

Amending clause.

Section 2. Section 67-2211, R.C.M. 1947, is amended to read as follows:

Report of abandoned property.

"67-2211. **Report of abandoned property.** (a) Every person holding funds or other property, tangible or intangible, presumed abandoned under this act shall report to the state treasurer with respect to the property as hereinafter provided.

Report to include.

(b) The report shall be verified and shall include:

(1) *Except with respect to travelers' checks and money orders, the* name, if known, and last known address, if any, of each person appearing from the records of the holder to be the owner of any property of value of three

HeinOnline -- 1967 vol. I 646 1967

dollars ($3) or more presumed abandoned under this act;

(2) In case of unclaimed funds of life insurance corporations, the full name of the insured or annuitant and his last known address according to the life insurance corporation's records;

(3) The nature and identifying number, if any, or description of the property and the amount appearing from the records to be due, except that items of value under three dollars ($3) each may be reported in aggregate;

(4) The date when the property became payable, demandable, or returnable, and the date of the last transaction with the owner with respect to the property; and

(5) Other information which the state treasurer prescribes by rule as necessary for the administration of this act.

(c) If the person holding property presumed abandoned is a successor to other persons who previously held the property for the owner, or if the holder has changed his name while holding the property, he shall file with his report all prior known names and addresses of each holder of the property.

Filing report.

(d) The report shall be filed before November 1 of each year as of June 30 next preceding, but the report of life insurance corporations shall be filed before May 1 of each year as of December 31 next preceding. The state treasurer may postpone the reporting date upon written request by any person required to file a report.

(e) If the holder of property presumed abandoned under this act knows the whereabouts of the owner and if the owner's claim has not been barred by the statute of limitations, the holder shall, before filing the annual report, communicate with the owner and take necessary steps to prevent abandonment from being presumed. The holder shall exercise due diligence to ascertain the whereabouts of the owner.

Verification.

(f) Verification, if made by a partnership, shall be executed by a partner; if made by an unincorporated association or private corporation, by an officer; and if made by a public corporation, by its chief fiscal officer.

HeinOnline -- 1967 vol. I 647 1967

(g) The initial report filed under this act shall include all items of property that would have been presumed abandoned if this act had been in effect during the ten-year period preceding its effective date."

Amending clause.

Section 3. Section 67-2212, R.C.M. 1947, is amended to read as follows:

Notice and publication of lists of abandoned property.

"67-2212. **Notice and publication of lists of abandoned property.**

(a) Within one hundred twenty (120) days from the filing of the report required by section 11 [67-2211], the state treasurer shall cause notice to be published at least once each week for two *(2)* successive weeks in an English language newspaper of general circulation in the county in this state in which is located the last known address of any person to be named in the notice. If no address is listed or if the address is outside this state, the notice shall be published in the county in which the holder of the abandoned property has his principal place of business within this state.

Notice to contain.

(b) The published notice shall be entitled 'Notice of Names of Persons Appearing to Be Owners of Abandoned Property,' and shall contain:

(1) The names in alphabetical order and last known addresses, if any, or person listed in the report and entitled to notice within the county as hereinbefore specified.

(2) A statement that information concerning the amount or description of the property and the name and address of the holder may be obtained by any persons possessing an interest in the property by addressing an inquiry to the state treasurer.

(3) A statement that if proof of claim is not presented by the owner to the holder and if the owner's right to receive the property is not established to the holder's satisfaction within sixty-five (65) days from the date of the second published notice, the abandoned property will be placed not later than eight-five (85) days after such publication date in the custody of the state treasurer to whom all further claims must thereafter be directed.

(c) The state treasurer is not required to publish in such notice any item of less than twenty-five dollars

HeinOnline -- 1967 vol. I 648 1967

($25) unless he deems such publication to be in the public interest.

(d) Within one hundred twenty (120) days from the receipt of the report required by section 11 [67-2211], the state treasurer shall mail a notice to each person having an address listed therein who appears to be entitled to property of the value of twenty-five dollars ($25) or more presumed abandoned under this act. Mailing of notice.

(e) The mailed notice shall contain: Mailed notice to contain.

(1) A statement that, according to a report filed with the state treasurer, property is being held to which the addressee appears entitled.

(2) The name and address of the person holding the property and any necessary information regarding changes of name and address of the holder.

(3) A statement that, if satisfactory proof of claim is not presented by the owner to the holder by the date specified in the published notice the property will be placed in the custody of the state treasurer to whom all further claims must be directed.

(f) This section is not applicable to sums payable on travelers' checks or money orders presumed abandoned under section 2 [67-2202]."

Section 4. Section 67-2213, R.C.M. 1947, is amended to read as follows: Amending clause.

"67-2213. **Payment or delivery of abandoned property.** Every person who has filed a report as provided by section 11 [67-2211] shall within twenty (20) days after the time specified in section 12 [67-2212] for claiming the property from the holder, *or in the case of sums payable on travelers' checks or money orders presumed abandoned under section 2 [67-2202] within twenty (20) days after the filing of the report,* pay or deliver to the state treasurer all abandoned property specified in *this* report, except that, if the owner establishes his right to receive the abandoned property to the satisfaction of the holder within the time specified in section 12 [67-2212], or if it appears that for some other reason the presumption of abandonment is erroneous, the holder need not pay or deliver the property, which will no longer be presumed Payment of delivery of abandoned property.

HeinOnline -- 1967 vol. I 649 1967

abandoned, to the state treasurer, but in lieu thereof shall file a verified written explanation of the proof of claim or of the error in the presumption of abandonment."

Approved: March 1, 1967.

CHAPTER 227

An Act Amending Sections 68-701, 68-801, 68-901, 68-1001, 68-1004, and 68-1101, R.C.M. 1947, Relating to the Service Retirement Allowance of Members of the Public Employees' Retirement System by Providing that Members of the System May Retire and Receive a Retirement Allowance, Equal at Age Sixty-five (65) to One-seventieth (1/70) of Final Compensation, Multiplied by Years of State Service.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 68-701, R.C.M. 1947, is amended to read as follows:

Management of retirement fund.

"68-701. **Management of retirement fund.** The retirement fund shall be managed as follows:

(a) The board of administration shall have exclusive control of the administration of said fund except as otherwise provided.

(b) The said fund shall be invested by the state board of land commissioners as part of the long term investment fund.

(c) The board of administration shall deposit monthly in the state treasury all amounts received by it as provided in this section and section 68-1307.

(d) The state treasurer shall be custodian of the retirement fund, subject to the exclusive control of the board of administration as to the administration thereof and the state board of land commissioners as to the investment thereof. All payments from said fund shall be made by him only upon vouchers signed by two (2) board members designated by the board of administration. A duly attested copy of a resolution of the board of administration designating such persons and bearing on its face specimen signatures of such persons shall be

HeinOnline -- 1967 vol. I 650 1967

filed with the treasurer as his authority for making payments upon such vouchers. No voucher shall be drawn unless it has previously been authorized by resolution of the board of administration.

(e) Interest earned on any cash deposit in a bank by the state treasurer and income on other assets constituting a part of the said fund shall be paid into said fund as received. Income, of whatever nature, earned on the retirement fund during any fiscal year, in excess of the interest credited to contributions during said year shall be retained in said fund as a reserve against deficiencies in interest earned in other years, losses under investments, and other contingencies.

(f) Except as herein provided, no member and no employee of the board of administration shall have any interest direct, or indirect, in the making of any investment, or in the gains or profits accruing therefrom. And no member or employee of the said board directly or indirectly, for himself or as an agent or partner of others, shall borrow any of its funds or deposits, nor shall any such member or employee in any manner use the same except to make such current and necessary payments as are authorized by said board; nor shall any member or employee of said board become an endorser or surety as to, or in any manner an obligor for investments by the board.

Normal rate of contribution for all members.

(g) *The normal rate of contribution of all members shall be equal to five and seventy-five one hundredths per cent (5.75%) of the gross compensation earned.*

(h) From and after July 1, 1955, the board of administration shall certify to the head of each office or department of the state and to the registrar of the university the normal rate of contribution as provided in this act for each member in such office, department, or the university, respectively. The head of each office or department of the state shall apply such rate of contribution to the compensation of each member, and shall certify to the state auditor on each and every payroll the amount to be contributed and shall furnish immediately to the board of administration a copy of each and every such payroll; and each such amount shall be deducted by the head of each office or department and shall be remitted to the board. The registrar of the university

HeinOnline -- 1967 vol. I 651 1967

shall apply the rate of contribution certified to him by the board to the compensation of each member employed by the university and the contributions so determined shall be deducted by the registrar of the university from the compensation of each such member; each such amount shall be remitted to the board and the registrar of the university shall furnish to the board a copy of each and every salary roll and payroll from which such amounts have been deducted. Each contribution deducted and remitted to the board shall be credited by the board, together with regular interest, to an individual account of the member for whom the contribution was made. Payment of salaries or wages less such contribution shall be full and complete discharge and acquittance of all claims and demands whatsoever for the service rendered by members during the period covered by such payment, except their claims to the benefits to which they may be entitled under the provisions of this act.

(i) From and after July 1, 1955, the board of administration shall certify to the city clerk, or other officer designated by the legislative body, of each contracting city the rate of contribution as provided in this act for each member included under the retirement system respectively. The city clerk, or other officer, shall apply the rate of contribution certified to him by the board to the compensation of each member included in the retirement system and the contribution so determined shall be deducted by the city clerk, or other officer, from the compensation of each such member; each such amount shall be remitted to the board and the city clerk or other officer, shall furnish to the board a copy of each and every salary roll and payroll from which such amounts have been deducted. Each contribution deducted and remitted to the board shall be credited by the board, together with regular interest, to an individual account of the member for whom the contribution was made. Payment of salaries or wages less such contribution shall be full and complete discharge and acquittance of all claims to the benefits to which they may be entitled under the provisions of this act.

(j) Subject to the rules and regulations to be established and promulgated by the board of administration, any member may elect to contribute at rates in excess of those provided for in subsection *(h)* and *(i)* of this

HeinOnline -- 1967 vol. I 652 1967

section of this act, for the purpose of providing additional benefits, but the exercise of this privilege by a member shall not place on the state or contracting city any additional financial obligation. The provisions of subdivision (f) and (g) of section 68-203 shall apply also to additional contributions. The board, upon application shall furnish to such member information concerning the nature and amount of additional benefits to be provided by such additional contributions.

(k) In addition to the contributions hereinbefore provided to be paid by employees who are members of the retirement system created by this act, every such employee shall pay an annual membership fee of one dollar ($1) which amount, together with other moneys appropriated for that purpose, shall be used for the support of the board of administration.

(l) From and after July 1, 1955, should the state service of a member be discontinued otherwise than by death or retirement, he shall after the date of discontinuance, be paid such part of his contributions as he demands. The board may, in its discretion, withhold for not more than one (1) year after a member last rendered state service, all or part of his contributions if after a previous discontinuance of state service he withdrew all or part of his contributions and failed to redeposit such withdrawn amount in the retirement fund as provided in subsection *(m)*.

Any member with ten (10) or more years of service, whose service is discontinued otherwise than by death or retirement, shall have the right to elect within ninety (90) days after such termination of service, and without right or revocation, whether to allow his accumulated contributions to remain in the retirement fund. Upon the qualification for retirement by reason of age or disability of a member who has elected to allow his accumulated contributions to remain in the retirement fund, he shall receive a retirement allowance in accordance with the provisions of section 68-901, exclusive of subparagraph *(c)* of section 68-901.

(m) Any member may redeposit in the retirement fund, in one sum or in not to exceed twelve (12) monthly or twenty-four (24) semimonthly payments, an amount equal to that which he withdrew therefrom at the last

HeinOnline -- 1967 vol. I 653 1967

termination of his membership, subject to minimum monthly or semimonthly payments as fixed by the board of administration. If a member, upon reentering the retirement system after a termination of his membership, does not elect to make or, having so elected, subsequently does not make such redeposit, he shall reenter as a new member without credit for any service except the prior service credited to him before said termination, and the rate of his contribution for future years shall be the normal rate provided for in this act at his age of reentrance; otherwise his rate of contribution for future years shall be the same as his rate prior to the last termination of his membership, and his membership shall be the same as if unbroken by such last termination. Regardless of whether such redeposit is made, the documents held by the retirement system as executed by said member prior to termination of membership shall be held by the system for the same purposes as prior to said termination, and beneficiaries nominated in such documents shall continue unchanged until changed as provided herein.

(n) The board may in its discretion transfer the savings account of a member to the pension accumulation fund if the account has been dormant for a period of ten (10) years provided that no right of the member shall be jeopardized by such transfer and the savings account shall be transferred to the member's name upon subsequent reentry to membership."

Amending clause.

Section 2. Section 68-801, R.C.M. 1947, is amended to read as follows:

Voluntary service retirement.

"68-801. **Voluntary service retirement.** (a) Retirement of a member for service shall be made by the board of administration upon his attaining the age of sixty (60) years or more and upon his completion of ten (10) or more years of public service credited under this act and the filing of his written application to the board, subject to the provisions of section 68-901; and provided, however, that the service retirement allowance shall commence on the day following the member's last day of state service or on the first day of the month in which his application is filed with the board of administration, whichever is later.

HeinOnline -- 1967 vol. I 654 1967

(b) Notwithstanding any other provisions of this act, any person who has been retired for service (as distinguished from disability) under the provisions of this act may be employed in state service in accordance with the laws governing such service in the same manner as a person who has not been so retired.

(c) Any person so employed shall be considered as reinstated from retirement and his retirement allowance shall be canceled forthwith. *Upon subsequent retirement he shall be entitled to receive a benefit, as provided in section 68-901, which shall be based upon his creditable service accumulated at the time of his previous retirement plus any creditable service accumulated subsequent to his reemployment.*"

Subsequent reinstatement and retirement.

Section 3. Section 68-901, R.C.M. 1947, is amended to read as follows:

Amending clause.

"68-901. **Service retirement allowance.** A member *who has reached his sixty-fifth birthday prior to July 1, 1967* upon retirement from service is entitled to receive a service retirement allowance which shall consist of either *an allowance as provided in subsections (a) through (f) of this section, or an allowance as provided in subsection (g) of this section at the option of the member:*

Service retirement allowance—member who is 65 before July 1, 1967.

(a) An annuity which shall be the actuarial equivalent of his accumulated contributions at the time of his retirement.

(b) A pension, purchased by the contributions of the state, or the contracting city, equal to one (1) that portion of the annuity purchased by the accumulated normal contributions of the member, or (2) one quarter (¼) of his average final compensation provided his total state service is at least thirty-five (35) years, otherwise, a pension which shall be one one-hundred fortieth (1/140) of his average final compensation multiplied by the number of years of state service; which ever is greater.

(c) An additional pension, purchased by the contributions of the state, for members other than persons who are employees of the university at the time of becoming members, and members employed by a contracting city. Such additional pension shall be equal to one-seventieth (1/70) of the member's final compensation, multiplied by the number of years of prior service, except that if a

HeinOnline -- 1967 vol. I 655 1967

member retires before attaining the age of sixty-five (65) years, the additional pension shall be reduced to that amount which the value of the pension computed as provided in this paragraph as deferred to age sixty-five (65) will purchase at the actual age of retirement.

(d) If a member retires before attaining the age of sixty-five (65) years, the additional pension shall be reduced to that amount which the value of the pension computed as provided in this section as deferred to age sixty-five (65) will purchase at the actual age of retirement.

(e) An additional pension, purchased by contributions of the state, for members who are also employees of the university at the time of becoming members, said additional pension to accrue from the date of retirement under the system regardless of whether said retirement was prior to the effective date hereof. Such additional pension shall be equal to one-seventieth (1/70) of the average annual compensation earnable by him during the three (3) years preceding retirement, multiplied by the number of years of prior service credited to him, except that if a member retires before attaining the age of sixty-five (65) years, the additional pension shall be reduced to that amount which the value of the pension computed as provided in this paragraph as deferred to age sixty-five (65), will purchase at the actual age of retirement. If, however, a member who is employed by the university at the time of becoming a member, shall not have rendered state service before January 1, 1946, his additional pension shall be based upon one-seventieth (1/70) of the average annual compensation earnable by him during the first year of the state service, or such portion thereof as he may have served before January 1, 1946, multiplied by the number of years of prior service credited to him.

(f) An additional pension on account of prior service, purchased by the contributions of the contracting city for members who are also employees of a contracting city as may be provided for under the contract between the board and the contracting city.

Member who is 65 after July 1, 1967.

(g) *A member who reaches his sixty-fifth birthday on or after July 1, 1967 upon retirement from service is en-*

HeinOnline -- 1967 vol. I 656 1967

titled to receive a service retirement allowance which shall consist of:

(i) A retirement allowance which shall be equal, at age sixty-five (65) to one-seventieth (1/70) of his final compensation, multiplied by the number of years of service.

(ii) A member retiring prior to the age of sixty-five (65) shall be entitled to a retirement allowance which shall be the actuarial equivalent of that portion of his retirement allowance based on his credited service prior to the date of actual retirement and which would have been payable to him at age sixty-five (65).

MINIMUM GUARANTEE

Minimum guarantee.

(h) When a member enters the retirement system with, or without, credit for prior service, and is otherwise eligible for retirement after attaining the age of seventy (70) years, if his final compensation was such that one-half (½) thereof is in excess of the total of his *retirement allowance, an* additional pension for prior service sufficient to cause his retirement allowance to amount to one-half (½) of such final compensation shall be paid him on account of prior service, but in no event shall a greater additional pension be paid than will cause the total retirement allowance, exclusive of the annuity provided by his accumulated additional contributions, to amount to the sum of four hundred eighty dollars ($480) per year. The provisions of this section shall not apply to the members who are employees of a contracting city unless provided for by contract between the board and the contracting city, but if a member be employed by more than one (1) of such cities, his aggregate retirement allowances shall be taken into account in applying said provisions, and said application shall be made as if the member was employed by one or more offices or departments of the state.

DISABILITY RETIREMENT

Disability retirement.

(i) Any member who has not reached seventy (70) years of age shall be retired for disability if incapacitated for the performance of duty as the result of any injury or disease arising out of and in the course of his employment. Incapacity for performance of duty shall be determined by the board of administration of the public employees' retirement system, and said board of adminis-

HeinOnline -- 1967 vol. I 657 1967

tration shall determine whether such incapacity is the result of injury or disease arising out of and in the course of employment. In the discharge of its duty regarding such determination, the board or any member thereof or duly authorized examiner or other duly authorized representative of the board shall have power to conduct hearings, administer oaths and affirmations, take depositions, certify to official acts and issue subpoenas to compel the attendance of witnesses and the production of books, papers, correspondence, memoranda and other records deemed necessary as evidence in connection with a claim for disability retirement. If the board determines on the evidence that it obtains and application filed that the disability resulted from injury or disease arising out of and in the course of employment, the said member shall be retired forthwith and be paid the benefits provided under the retirement system. Any such member incapacitated for the performance of duty by reason of a cause not included in the immediately preceding sentence, and any other member so incapacitated, regardless of the cause, shall be retired forthwith regardless of age but only after ten (10) years of service to the state, or to the contracting city.

(j) Subject to the requirements as to service and cause of disability stated in subdivision (i) of this section, and upon the application of a member or upon the application of the head of the office or department in which such member is or was last employed, or any other person on behalf of such member, while such member is in state service, within four (4) months after such member's discontinuance of state service, or while such member continuously, from the date of discontinuance of state service to the time of the application or motion, is physically or mentally incapacitated to perform his duties, may apply for, or the board of administration upon its own motion may order, a medical examination to determine the existence of such incapacity. Upon the receipt of such application, the board of administration shall order such medical examination. If the medical examination and other available information show, to the satisfaction of said board, that the member is incapacitated physically or mentally for the performance of his duties in the state service, the said board shall forthwith retire the member for disability. The said board shall secure such medical service and advice as is necessary to carry out the

HeinOnline -- 1967 vol. I 658 1967

purposes of this section and of sections 68-1001 through 68-1004, and shall pay for such medical services and advice such compensation as the board deems reasonable.

DISABILITY RETIREMENT ALLOWANCE

Disability retirement allowance.

(k) Upon retirement for disability a member who has attained the age of sixty (60) years shall receive a service retirement allowance as provided by subsections (a) *through (g)* of this section. Upon retirement of a member for disability resulting from injury or disease arising out of and in the course of employment, such member shall receive a retirement allowance of fifty per centum (50%) of his final compensation; provided, however, that for any period of time for which the industrial accident board has awarded compensation to the member, whether or not such compensation is received in weekly payments or in a lump sum, the retirement allowance shall be twenty-five per centum (25%) of his final compensation and at the end of such period of time shall revert to fifty per centum (50%) as provided above.

(l) Every other member retired for disability shall receive a retirement allowance which shall consist of:

(i) An annuity which shall be *equal to one one-hundred fortieth (1/140) of his final compensation multiplied by the number of years of state service; and*

(ii) If, in the opinion of the board of administration, such disability is not due to intemperance, willful misconduct or violation of law on the part of the member, a pension *paid from* the contributions of the state, or of the contracting city which, together with his annuity provided by his accumulated normal contributions, shall make the retirement allowance, exclusive of the annuity provided by his accumulated additional contributions, equal to ninety percent (90%) of one-seventieth (1/70) of his final compensation multiplied by the number of years of service credited to him. In no event, however, shall *this pension exceed twenty-five percent (25%) of his final compensation.*

(iii) If, in the opinion of the board, the disability is due to intemperance, willful misconduct or violation of law, on the part of the member, and the annuity to which said member is entitled under subdivisions (k) and (l) of this section, is less than two hundred forty dollars

HeinOnline -- 1967 vol. I 659 1967

($240) per year, the board of administration in its discretion, may pay to said member, in one lump sum and in lieu of said annuity, his accumulated contributions."

Amending clause.

Section 4. Section 68-1001, R.C.M. 1947, is amended to read as follows:

Reinstatement from disability retirement.

"68-1001. **Reinstatement from disability retirement.** (a) The board of administration, may, at its pleasure, require any disability beneficiary to undergo medical examination. Such examination shall be made by a physician or surgeon, appointed by the board, at the place of residence of said beneficiary or other place mutually agreed upon. Upon the basis of such examination the board shall determine whether said disability beneficiary is still incapacitated, physically or mentally, for service in the office or department of the state or of the contracting city, where he was employed and in the position held by him when retired for disability, or for duties proposed to be assigned to him. If the board of administration determines that said beneficiary is not so incapacitated, his retirement allowance shall be canceled forthwith. If he was an employee of the state or of the university, he shall be reinstated to the position held by him when retired for disability or to a position in the same classification with duties within his capacity. If he was an employee of a contracting city, the board shall notify the proper official of said city that said disability has been terminated and that said person is eligible for reinstatement to duty. The fact that said person was retired for disability shall not prejudice any right to reinstatement to duty which he may have or claim to have.

(b) In the case of such a member who is an employee of a contracting city, and who for any reason is not so reinstated or is not reemployed by said city in a position subject to the retirement system, he shall be paid *the amount of his accumulated contributions at the time of his retirement for disability, with interest, less the total retirement allowance received.*

(c) Should a disability beneficiary reenter the state service and be eligible for membership in the retirement system in accordance with section 68-202, his retirement allowance shall be canceled and he shall immediately become a member of the retirement system. *Upon subsequent retirement he shall be entitled to receive a benefit,*

HeinOnline -- 1967 vol. I 660 1967

as provided in section 68-901, which shall be based upon his creditable service accumulated at the time of his previous retirement plus any creditable service accumulated subsequent to his reemployment."

Section 5. Section 68-1004, R.C.M. 1947, is amended to read as follows: Amending clause.

"68-1004. **Payment in case of cancellation of disability allowance.** Should the retirement allowance of any disability beneficiary be canceled for any cause other than reentrance into the state service, he shall be paid *the amount of his accumulated contributions at the time of his retirement for disability, with interest, less the total retirement allowance received."* Payment when cancellation of disability allowance.

Section 6. Section 68-1101, R.C.M. 1947, is amended to read as follows: Amending clause.

"68-1101. **Death benefit.** Upon the death before retirement of a member while in the state service, or within four (4) months after the discontinuance of state service, or while physically or mentally incapacitated for the performance of his duty, if such incapacity has been continuous from the discontinuance of state service, the retirement system shall be liable for a death benefit, which death benefit shall be paid to such person or other legal entity as he has nominated by written designation duly executed and filed with the retirement board or, if no beneficiary shall be nominated, then pursuant to the provisions of section 68-1201; provided, however, that death benefits shall not be payable to the beneficiary of a member who (a) has elected a joint life annuity option as provided in section 68-1005, or (b) who has received a disability retirement allowance as provided for in paragraphs (j) through (l) of section 68-901, for a period of four (4) months immediately preceding death. Such death benefit shall consist of: Death benefit.

(a) His accumulated contributions, and in addition thereto,

(b) An amount, provided from contributions by the state, or by a contracting city, which shall be equal to one-twelfth (1/12th) of the annual compensation earnable by the deceased during the twelve (12) months immediately preceding his death, multiplied by the number of completed years of service under the system, but not to exceed fifty per centum (50%) of such compensation.

HeinOnline -- 1967 vol. I 661 1967

(c) A member, or a beneficiary after death of a member, may elect, by written designation, duly executed and filed with the board of administration to have the death benefit provided in clauses (a) and (b) paid in monthly installments, fixed in number or amount, all subject to such rules and regulations as the board may adopt. Regular interest shall be credited on the unpaid balance of such benefit, at rates then in use under the system as adopted by the board from time to time.

(d) If compensation is awarded by the industrial accident board of the state of Montana by reason of a finding that the member's death resulted from injury or disease arising out of or in the course of employment, the death benefit payable hereunder shall be limited to a refund of the member's accumulated contributions. In any case where the industrial accident board makes a determination that death of a state employee resulted from injury or disease arising out of and in the course of employment and pays compensation therefor, the industrial accident board shall certify its findings and determination to the board of administration of the public employees' retirement system.

Survivorship provision.

(e) **Survivorship provision.** In lieu of the benefits provided in (a) and (b) above, if the deceased member is qualified by reason of service for a retirement benefit, the beneficiary; if a natural person of legal age, may elect to receive a monthly life annuity. Said monthly life annuity is to be based on the beneficiary's attained age at the time of the deceased member's death and to be calculated from an amount equal to the required reserve for the *retirement allowence earned by the deceased member to the date of his death;* and provided that this provision be retroactive for all members who had an option for a lesser retirement allowance filed in the retirement system office at the time of their death.

(f) The beneficiary shall have ninety (90) days after receipt of notice from the board of administration that he is entitled to a death benefit, to make the elections provided for in paragraphs (c) and (e) above."

Supplementary clause.

Section 7. This act is intended to be supplementary, and is not intended to repeal sections 68-701 through 68-1101, R.C.M. 1947, or any other law relating to the Public Employees' Retirement Act.

Approved: March 1, 1967.

HeinOnline -- 1967 vol. I 662 1967

CHAPTER 228

An Act to Revise the Uniform Federal Tax Lien Registration Act, Authorizing the Filing of Notices of Liens for Taxes Payable to the United States of America and of Certificates Discharging Such Liens, and to Make Uniform the Law With Reference Thereto; Repealing Sections 84-3901, 84-3902,, 84-3903, 84-3904, 84-3905, 84-3906, 84-3907, R.C.M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. **Federal tax lien—place of filing.** Federal tax lien —place of filing —real property.

(a) Notices of liens upon real property for taxes payable to the United States, and certificates and notices affecting the liens shall be filed in the office of the clerk and recorder of the county or counties in which the real property subject to a federal tax lien is situated.

(b) Notices of liens upon personal property, whether tangible or intangible, for taxes payable to the United States and certificates and notices affecting the liens shall be filed as follows: Personal property.

(1) if the person against whose interest the tax lien applies is a corporation or a partnership whose principal executive office is in this state, as these entities are defined in the internal revenue laws of the United States, in the office of the secretary of state;

(2) in all other cases in the office of the clerk and recorder of the county where the taxpayer resides at the time of filing of the notice of lien.

Section 2. **Execution of notices and certificates.** Execution of notices and certificates. Certification by the secretary of the treasury of the United States or his delegate of notices of liens, certificates, or other notices affecting tax liens entitles them to be filed and no other attestation, certification, or acknowledgment is necessary.

Section 3. **Duties of filing officer.** (a) If a notice of federal tax lien, a refiling of a notice of tax lien, or a notice of revocation of any certificate described in subsection (b) is presented to the filing officer, and Duties of filing officer.

(1) he is the secretary of state, he shall cause the notice to be marked, held and indexed in accordance with the provisions of subsection (4) of section 87A-9-403,

HeinOnline -- 1967 vol. I 663 1967

Revised Codes of Montana 1947, as if the notice were a financing statement within the meaning of that code; or

(2) he is any other officer described in section 1 of this act, he shall endorse thereon his identification and the date and time of receipt and forthwith file it alphabetically or enter it in an alphabetical index showing the name and address of the person named in the notice, the date and time of receipt, the serial number of the district director and the total unpaid balance of the assessment appearing on the notice of lien.

(b) If a certificate of release, non-attachment, discharge or subordination of any tax lien is presented to the secretary of state for filing he shall

(1) cause a certificate of release or non-attachment to be marked, held and indexed as if the certificate were a termination statement within the meaning of the uniform commercial code, except that the notice of lien to which the certificate relates shall not be removed from the files, and

(2) cause a certificate of discharge or subordination to be held, marked and indexed as if the certificate were a release of collateral within the meaning of the uniform commercial code.

(c) If a refiled notice of federal tax lien referred to in subsection (a) or any of the certificates or notices referred to in subsection (b) is presented for filing with any other filing officer specified in section 1, he shall permanently attach the refiled notice or the certificate to the original notice of lien and shall enter the refiled notice or the certificate with the date of filing in any alphabetical federal tax lien index on the line where the original notice of lien is entered.

(d) Upon request of any person, the filing officer shall issue his certificate showing whether there is on file, on the date and hour stated therein any notice of federal tax lien or certificate or notice affecting the lien, filed on or after July 1, 1967, naming a particular person, and if a notice or certificate is on file, giving the date and hour of filing of each notice or certificate. The fee for a certificate is two dollars ($2). Upon request the filing officer shall furnish a copy of any notice of federal tax lien or notice or certificate affecting a federal tax lien for a fee of one dollar ($1) per page.

HeinOnline -- 1967 vol. I 664 1967

Fees.

Section 4. **Fees.** The fee for filing and indexing each notice of lien or certificate or notice affecting the tax lien is:

(1) for a tax lien on real estate, two dollars ($2).

(2) for a tax lien on tangible and intangible personal property, two dollars ($2).

(3) for a certificate of discharge or subordination, one dollar ($1).

(4) for all other notices, including a certificate of release or non-attachment, two dollars ($2). The officer shall bill the district directors of internal revenue on a monthly basis for fees for documents filed by them.

Uniformity of interpretation.

Section 5. **Uniformity of interpretation.** This act shall be so construed as to effectuate its general purpose to make uniform the laws of those states which enact it.

Revised Uniform Federal Tax Lien Registration Act.

Section 6. **Short title.** This act may be cited as the Revised Uniform Federal Tax Lien Registration Act.

Severability clause.

Section 7. **Severability.** If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the act which can be given effect without the invalid provision or application and to this end the provisions of the act are severable.

Repealing clause.

Section 8. **Repeal of prior acts.** Sections 84-3901, 84-3902, 84-3903, 84-3904, 84-3905, 84-3906 and 84-3907, R.C.M. 1947, and all other acts or parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 9. **Tax liens and notices filed before effective date of this act.** Filing officers with whom notices of federal tax liens, certificates and notices affecting such liens have been filed on or before July 1, 1967, shall, after that date, continue to maintain a file labeled "federal tax lien notices filed prior to July 1, 1967," containing notices and certificates filed in numerical order of receipt. If a notice of lien was filed on or before July 1, 1967, any certificate or notice affecting the lien shall be filed in the same office.

Approved: March 1, 1967.

HeinOnline -- 1967 vol. I 665 1967

CHAPTER 229

An Act for the General Revision and Recodification of Fire Protection Laws; Amending Sections 69-1801, 69-1802, 69-1808, 69-2101, 69-2103, 82-1201, 82-1202, 82-1208, 82-1209, 82-1211 and 82-1218, R.C.M. 1947, and Repealing Sections 82-1203, 82-1204, 82-1210, 82-1227 and 82-1228, R.C.M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 82-1201, R.C.M. 1947, is amended to read as follows:

State fire marshal—fire prevention advisory commission.

"82-1201. **Creation of office of state fire marshal—***fire prevention advisory commission.* *(1)* There is *an* office of state fire marshal, which *is* under the supervision and control of the commissioner of insurance.

(2) The state fire marshal shall be appointed by the commissioner of insurance and shall serve at his pleasure.

(3) A person appointed state fire marshal shall:

(a) have at least ten (10) years of progressively responsible experience in fire protection; or

(b) a degree in engineering from a recognized institution of higher education and two (2) years' experience in fire protection; or

(c) a degree from a recognized institution of higher education in fire protection engineering or fire protection technology.

Fire prevention advisory commission.

(4) Not later than thirty (30) days after this act becomes effective the commissioner of insurance shall appoint a fire prevention advisory commission composed of the following members:

(a) One person representing the fire insurance industry whose initial term shall be for one (1) year;

(b) One person representing industry whose initial term shall be for one (1) year;

(c) One person representing full-time paid fire departments whose initial term shall be for two (2) years;

(d) One person representing volunteer fire departments whose initial term shall be for two (2) years;

HeinOnline -- 1967 vol. I 666 1967

(e) One person representing architects of the state whose initial term shall be for three years;

(f) One person representing the public whose initial term shall be for four (4) years;

(g) The commissioner of insurance.

After termination of the initial term, all members shall be appointed for four (4) year terms. Appointed members of the commission shall be reimbursed for meetings at the rate of twenty dollars ($20) per day plus actual expenses including mileage, food, and lodging. The commissioner of insurance shall serve as chairman, and the state fire marshal shall serve as secretary of the commission."

Section 2. Section 82-1202, R.C.M. 1947, is amended to read as follows: Amending clause.

"82-1202. **Powers of the state fire marshal.** The state fire marshal shall: Powers of state fire marshal.

(1) Make at least one inspection during every year, of each state institution, and submit a copy of the report to the state department of institutions with recommendations in regard to fire prevention, fire protection and to the public safety.

(2) *Make at least one inspection during every year, of each unit of the Montana university system, and submit a copy of the report to the executive secretary of the university system with recommendations in regard to fire prevention, fire protection and to the public safety.*

(3) Inspect public, business, or industrial buildings and require conformance to *law or rules* promulgated *under the provisions of this act.*

(4) Do all things necessary and convenient for carrying into effect the *fire prevention* laws of this state governing this act and may, promulgate necessary rules *for safeguarding lives and property from the hazards of fire and explosion after consultation with the fire prevention advisory commission and approval by the commissioner of insurance. No rule shall become effective until after a public hearing held in the manner described in section 4 of this act. If fire prevention rules promulgated by the fire marshal are violated, he may maintain an action to enjoin the use of all or a portion of a building or facility,*

HeinOnline -- 1967 vol. I 667 1967

or restrain a specific activity, until there is compliance with the rules."

Section 3. There is a new section in title 82, chapter 12, R.C.M. 1947, numbered 82-1202.1 which reads as follows:

Rules establishing minimum standards of fire protection requirements.

"82-1202.1 (1) Rules promulgated by the state fire marshal by authority of section 82-1202, R.C.M. 1947, shall establish minimum standards of fire protection requirements, including but not limited to requirements for design, construction, installation, operation, storage, handling, maintenance or use of the following: structural requirements for various types of construction; building restrictions within congested districts; exit facilities from structures; fire alarm systems and fire extinguishing systems; fire emergency drills; flue and chimney construction; heating devices; electrical wiring and equipment; air conditioning, ventilating and other duct systems; refrigeration systems; flammable liquids; oil and gas wells; application of flammable finishes; explosives, acetylene, liquefied petroleum gas and similar products; calcium carbide and acetylene generators; flammable motion picture film, combustible fibres; hazardous chemicals; rubbish, open flame devices; parking of vehicles; dust explosions; lightning protection; and other special fire hazards.

(2) Standards of the National Fire Protection Association, United States Bureau of Standards, American Insurance Association Standards may be adopted in whole or in part by reference."

Section 4. There is a new section in title 82, chapter 12, R.C.M. 1947, numbered 82-1202.2 which reads as follows:

Notice of time and place of public hearing.

"82-1202.2. Notice of the time and place of public hearing required by section 82-1202, R.C.M. 1947, shall be published at least five (5) times in at least two (2) newspapers of general circulation throughout the state. The last published notice shall appear not less than fifteen (15) days prior to the public hearing. A copy of the notice of public hearing shall be furnished by mail to any person who files his address with the fire marshal together with a request for such notification. Any person may appear before the state fire marshal and present testimony on proposed rules in the manner prescribed by the

HeinOnline -- 1967 vol. I 668 1967

marshal. Following the public hearing, the state fire marshal may approve, approve in modified form, or disapprove a proposed rule. The state fire marshal shall specify the date when any new rule or change in an existing rule becomes effective."

Section 5. Section 82-1208, R.C.M. 1947, is amended to read as follows: Amending clause.

"82-1208. **Special deputy fire** *marshals—acting fire marshal—fire marshal's employees.* *(1)* In an emergency, or during the absence or disability of the state fire marshal, the commissioner of insurance may appoint *an acting* fire marshal, who shall perform the duties of the office, or any duty which may be assigned to him, such appointment to cease when the necessity therefor has been relieved. Special deputy fire marshals, acting fire marshals and employees.

(2) The state fire marshal may appoint special deputy state fire marshals throughout the state and define their duties. When performing these duties or attending a training course conducted by the state fire marshal, special deputy fire marshals may be paid at a rate not to exceed twenty dollars ($20) per day plus per diem allowance for expenses and mileage at the same rates specified for state employees.

(3) The fire marshal may appoint assistants and clerical employees to perform duties as specified by the marshal to assist in carrying out the duties assigned him by law."

Section 6. Section 82-1209,, R.C.M. 1947, is amended to read as follows: Amending clause.

"82-1209. **Investigation of fires.** *(1)* The cause, origin, and circumstances of each fire, by which property has been destroyed or damaged, shall *be investigated* to determine whether the fire was the result of carelessness or design. The state fire marshal may superintend and direct the investigation if he deems it necessary. Investigation of fires.

(2) If the fire occurs within a muncipiality or organized fire district, the chief of the fire department shall make the investigation. If the fire occurs outside a municipality or organized fire district, the county sheriff shall make the investigation. If it appears that the fire was of suspicious origin, or if there was a loss of human life, the official responsoible for the investigation shall notify the

HeinOnline -- 1967 vol. I 669 1967

state fire marshal within twenty-four (24) hours, and shall file a written report of the cause with the state fire marshal within ten (10) days.

(3) If it appears that the fire was of suspicious origin, if there was a loss of human life, or if the property loss exceeded one hundred dollars ($100) as soon as any adjustment has been made, a person representing the insurance company shall notify the official responsible for investigating the fire of the amount of adjustment and the apparent cause and circumstances of the fire.

(4) On or before February 15 of each year, each official responsible for investigating fires shall file a fire loss report for the immediately preceding calendar year with the state fire marshal. Reports shall be on forms, and shall contain information, prescribed by the state fire marshal."

Amending clause.

Section 7. Section 82-1211, R.C.M. 1947, is amended to read as follows:

Violation—penalty.

"82-1211. **Penalty for violation of law.** *Any person* who *fails* to comply with *the* requirements of *section 82-1209, R.C.M. 1947,* shall be fined not less than twenty-five *dollars ($25)* nor more than two hundred dollars *($200).*"

Amending clause.

Section 8. Section 82-1218, R.C.M. 1947, is amended to read as follows:

Entering buildings for examination.

"82-1218. **Entering of buildings for purpose of examination.** The state fire marshal, his deputies and subordinates, the chief of the fire department of each *municipality or district* where a fire department is established, or the *county sheriff* where no fire department exists, at all reasonable hours may enter into all buildings and upon all premises within their jurisdiction for the purpose of *determining whether the building or premise conforms to laws and rules relating to fire hazards and fire safety.*"

Amending clause.

Section 9. Section 69-1801, R.C.M. 1947, is amended to read as follows:

Purpose of act.

"69-1801. **Purpose of act.** The purpose and intent of this act is to provide for the public safety in case of fire in those *occupancies* specified in section 69-1802; to pro- for fire escapes, fire-fighting apparatus, fire alarms; and to provide for inspection of such buildings and premises by specified officers."

HeinOnline -- 1967 vol. I 670 1967

Section 10. Section 69-1802, R.C.M. 1947, is amended to read as follows: Amending clause.

"69-1802. **Application of act** *Sections 69-1801 through 69-1810, R.C.M. 1947, apply to the following occupancies:* Application of act.

(1) Assembly occupancy means the occupancy or use of a building or structure or any portion thereof by a gathering of persons for civic, political, travel, religious, social or recreational purposes; including among others, Assembly occupancy.

armories	*dance halls*	*opera houses*
assembly halls	*exhibition rooms*	*passenger stations*
auditoriums	*gymnasiums*	*pool rooms*
bowling alleys	*lecture halls*	*recreation areas*
broadcasting studios	*lodge rooms*	*restaurants*
chapels	*motion picture theatres*	*skating rinks*
churches	*museums*	*television studios*
club rooms	*night clubs*	*theatres*
		taverns

(2) Business occupancy means the occupancy or use of a building or structure or any portion thereof for the transaction of business, or the rendering or receiving of professional services; including among others, Business occupancy.

banks	*office buildings*	*telephone exchanges*
barber shops	*radio stations*	*television stations*
beauty parlors		

(3) Educational occupancy means the occupancy or use of a building or structure or any portion thereof by persons assembled for the purpose of learning or of receiving educational instruction; including among others, Educational occupancy.

academies	*libraries*	*schools*
colleges		*universities*

(4) Industrial occupancy means the occupancy or use of a building or structure or any portion thereof for assembling, fabricating, finishing, manufacturing, packaging or processing operations; including among others, Industrial occupancy.

assembly plants	*laboratories*	*processing plants*
creameries	*laundries*	*pumping stations*
electric substations	*manufacturing plants*	*repair garages*
factories	*mills*	*smoke houses*
ice plants	*power plants*	*work shops*

(5) Institutional occupancy means the occupancy or use of a building or structure or any portion thereof by persons harbored or detained to receive medical, charitable Institutional occupancy.

HeinOnline -- 1967 vol. I 671 1967

or other care or treatment, or by persons involuntarily detained; including among others,

asylums	*infirmaries*	*penal institutions*
homes for the aged	*jails*	*reformatories*
hospitals	*nurseries*	*sanitariums*
houses of correction	*orphanages*	*long-term care facilities*
day care facilities	*nursing homes*	*boarding homes*

Residential occupancy.

(6) Residential occupancy means the occupancy or use of a building or structure or any portion thereof by persons for whom sleeping accommodations are provided but who are not harbored or detained to receive medical, charitable or other care or treatment, or are not involuntarily detained, including among others,

apartments	*dormitories*	*motels*
club houses	*dwellings*	*multifamily houses*
convents	*hotels*	*lodging houses*

but not including single-family private houses."

Amending clause.

Section 11. Section 69-1808, R.C.M. 1947, is amended to read as follows:

Inspection by fire chiefs, sheriffs, fire marshals—permits and notice of inadequate equipment—compliance and enforcement.

"69-1808. **Inspection by fire chiefs,** *county sheriff, deputy fire marshals—review of plans by fire marshal—permits*—**notice of inadequate equipment—compliance—enforcement.** *(1) Within incorporated municipalities an educational or institutional occupancy, whether public or private may not be constructed or alterations made costing fifteen hundred dollars ($1,500) or more unless sketches or architectural plans, whichever are available, are submitted for the construction or alteration to the state fire marshal and approved by him.*

(2) Outside incorporated municipalities an assembly, educational or institutional occupancy may not be constructed or alterations made costing fifteen hundred dollars ($1,500) or more unless a permit has been issued for the construction or alteration by the county commissioners. A fee of ten dollars ($10) shall be paid to the county treasurer for each permit. A copy of said permit shall be furnished to the county assessor. No permit shall be issued until sketches or architectural plans, whichever are available, are submitted for the alteration or construction of the above occupancies to the state fire marshal and approved by him. The fire marshal and county sheriffs are responsible for enforcing the provisions of this subsection.

HeinOnline -- 1967 vol. I 672 1967

(3) A building designed for human occupancy owned or controlled by the state may not be constructed unless plans for the construction have been submitted to the state fire marshal and approved by him.

(4) It shall be the duty of the chief of the fire department of each *municipality or district* where a fire department is established and the *county sheriff or deputy fire marshals* where no fire department exists at least once each (6)) months to enter into all buildings and upon all premises within his jurisdiction for the purpose of the examination of such premises for violations of this act. Such inspection shall include but shall not be limited to testing fire alarms, fire extinguishers, examining fire hose and attachments, and other fire apparatus, and examining fire escapes provided for herein. Copies of such inspection shall be filed in the office of the state fire marshal on forms to be provided by him.

(5) When any building shall be found which required the erection of fire escapes, and upon which fire escapes have not been erected according to the provisions of this act, or if fire hoses, fire extinguishers, fire alarms, or other fire apparatus is found to be lacking, or defective or not in good working condition, the person making such inspection or the state fire marshal shall serve a written notice upon the party or parties whose duty it is to erect such fire escapes, or maintain such fire apparatus. Said notice shall specify the time within which said fire escape shall be erected, or such defective conditions be remedied, and in no case shall be more than ninety *(90)* days; and said notice shall be deemed to have been served if delivered to the person to be notified, or if left with any adult person at the usual residence or place of business of the person to be notified, or if deposited in the post office, directed to the last known address of the person to be notified. In case of buildings within the term of this act, that are managed and controlled by a board of trustees, board of commissioners, or other governing body, to cause the erection of fire escapes on said buildings, as may be required; provided, that the occupant or lessee of any building who is required to erect fire escapes under the provisions of this act, shall be entitled to reimburse himself for the cost and expense of erecting said fire escapes out of the rent or lease money of said premises, and such reimbursement shall not be construed to be

HeinOnline -- 1967 vol. I 673 1967

a breach of any existing lease, contract, or any covenant thereof nor grounds for any action or damage ouster.

(6) The state fire marshal shall have general charge and supervision of the enforcement of the provisions of this act and such officers as above enumerated shall act under the general charge and supervision of the state fire marshal. Said officer shall assist the state fire marshal in giving effect to the terms and provisions of this act and shall be subject to his direction and to the rules adopted for the enforcement of this act."

Section 12. Section 69-2101, R.C.M. 1947, is amended to read as follows:

Amending clause.

"69-2101. **Doors on buildings accommodating the public to open outward.** Every person who constructs, owns, controls, or has the custody of any building erected, or to be erected, *which is defined as an assembly, educational, or institutional occupancy in section 69-1802, R.C.M. 1947,* or any building owned or controlled by the state of Montana to be used *for human occupancy* shall have at least two*(2)* separate exits or as many more as the fire marshal shall direct. These exits shall be placed as remote from each other as consistent with the construction of the building and shall be easily accessible from all parts of the building."

Doors to open outward on public buildings.

Section 13. Section 69-2103, R.C.M. 1947, is amended to read as follows:

Amending clause.

"69-2103. **Duty of state fire marshal,** *his deputies, county sheriffs*—**notice of violation.** It shall be the duty of the state fire marshal, his deputies and *county sheriffs* to enter into all *assembly, educational, or institutional occupancies as defined in section 69-1802, R.C.M. 1947,* for the purpose of examination of such premises for violations of this act, and when any building shall be found which has not been constructed or maintained according to the provisions of this act, he shall serve or cause to be served a written notice upon the person or persons who own or have under control such building. This notice shall specify the violation and the time given within which such violation shall be remedied. Upon the failure of any of the parties charged with the duty of correcting such violations, in accordance with this act, the state fire marshal shall transmit this information to the attorney general of the state, who shall refer said violation to the

Duty of state fire marshal, deputies and sheriffs—notice of violation.

HeinOnline -- 1967 vol. I 674 1967

county attorney of the county wherein the violation occurs for prosecution, and the attorney general may assist the said county attorney to a determination of the matter. The said attorney general shall instruct the said county attorney to institute an action against the owner, lessee or occupant of such building for an injunction and abatement against the property."

Section 14. Sections 82-1203, 82-1204, 82-1210, 82-1227 and 82-1228, R.C.M. 1947, are repealed. Repealing clause.

Approved: March 1, 1967.

CHAPTER 230

An Act Amending Section 82-3001, R.C.M. 1947, to Provide Additional Representation on the Council of Natural Resources and Development, to Include the Commissioner of Agriculture, the Executive Officer of the State Board of Health, the Director of Planning and Economic Development, and the Executive Secretary of the State Soil Conservation Committee, and to Correct the Designations of Representatives from the State Fish and Game Department, the State Oil and Gas Conservation Commission, and the Montana Water Resources Board.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 82-3001, R.C.M. 1947, is amended to read as follows: Amending clause.

"82-3001. **Creation of interdepartmental advisory council.** There is hereby created an interdepartmental advisory council, to be known as the council on natural resources and development (hereinafter referred to as the 'council'). It shall be composed of the following: The commissioner of state lands and investments, *director of the department of state fish and game,* state forester, secretary of the grass conservation commission, *director of the Montana water resources board,* executive secretary of the oil *and gas* conservation *commission,* director of the state bureau of mines and geology, state highway engineer, *commissioner of agriculture, executive officer of the state board of health, director of planning and economic development, and executive secretary of the state soil conservation committee.*" Creation of interdepartmental advisory council.

Approved: March 1, 1967.

HeinOnline -- 1967 vol. I 675 1967

CHAPTER 231

An Act Amending Section 25-605, R.C.M. 1947, Pertaining to the Salaries of County Treasurers, Clerk and Recorder, Clerk of the Court, County Attorneys, Sheriffs, County Assessors, County Superintendents of Schools, and of County Surveyors in Counties Where County Surveyors Now Receive Salaries; Increasing said Salaries in all Categories.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 25-605, R.C.M. 1947, is amended to read as follows:

Salaries of certain county officers.

"25-605. **Salaries of certain county officers.** The salaries of county treasurers, clerk and recorder, clerk of the court, county attorneys, sheriffs, county assessors, county superintendents of schools, and of county surveyors in counties where county surveyors now receive salaries as provided in section 32-303, Revised Codes of Montana, 1947, shall be based on the population and taxable valuation of the county in accordance with the following schedule:

Population of County	Salary Col. A
Below 3,000	*$2,320*
3,000 to 3,999	*2,380*
4,000 to 4,999	*2,440*
5,000 to 5,999	*2,490*
6,000 to 6,999	*2,550*
7,000 to 7,999	*2,720*
8,000 to 8,999	*2,770*
9,000 to 9,999	*2,830*
10,000 to 12,499	*2,880*
12,500 to 14,999	*2,940*
15,000 to 17,499	*3,000*
17,500 to 19,999	*3,050*
20,000 to 24,999	*3,110*
25,000 to 29,999	*3,160*
30,000 to 39,999	*3,220*
40,000 to 49,999	*3,300*
50,000 to 59,999	*3,420*
60,000 to 69,999	*3,530*
70,000 to 79,999	*3,640*
80,000 to 89,999	*3,750*

HeinOnline -- 1967 vol. I 676 1967

90,000 to 99,999	*3,860*
100,000 and over	*3,980*

Taxable Valuation of County	Salary Col. B
Below $2,000,000	*$2,320*
2,000,000 to 2,999,999	*2,380*
3,000,000 to 3,999,999	*2,440*
4,000,000 to 4,999,999	*2,490*
5,000,000 to 5,999,999	*2,550*
6,000,000 to 6,999,999	*2,720*
7,000,000 to 7,999,999	*2,770*
8,000,000 to 9,999,999	*2,830*
10,000,000 to 11,999,999	*2,880*
12,000,000 to 13,999,999	*2,940*
14,000,000 to 15,999,999	*3,000*
16,000,000 to 17,999,999	*3,050*
18,000,000 to 19,999,999	*3,110*
20,000,000 to 22,499,999	*3,160*
22,500,000 to 24,999,999	*3,220*
25,000,000 to 29,999,999	*3,300*
30,000,000 to 34,999,999	*3,420*
35,000,000 to 39,999,999	*3,530*
40,000,000 to 44,999,999	*3,640*
45,000,000 to 49,999,999	*3,750*
50,000,000 to 54,999,999	*3,860*
55,000,000 to 59,999,999	*3,980*
60,000,000 to 64,999,999	*3,980*
65,000,000 to 69,999,999	*3,980*
70,000,000 to 74,999,999	*3,980*
75,000,000 to 79,999,999	*3,980*

"The total salary paid to county treasurers, clerk and recorder, clerk of the court, county attorneys, sheriffs, county assessors, county superintendents of schools, and county surveyors in counties where county surveyors receive salaries, as provided in section 32-303, Revised Codes of Montana, 1947, shall be the sum of the salary shown in Column A based on population when added to the salary shown in Column B based on taxable valuation; provided, however, that county superintendents of schools shall receive, in addition to the salary based upon the totals of columns A and B above, the sum of four hundred dollars ($400) per year."

Approved: March 1, 1967.

HeinOnline -- 1967 vol. I 677 1967

CHAPTER 232

An Act to Make Special Mobile Equipment Subject to Assessment at Time of Application for Special Mobile Equipment Plate; Amending Section 32-3707, R.C.M. 1947, Which Provides for Special Mobile Equipment Registration, and Section 84-406, R.C.M. 1947, Which Specifies Assessment Dates; Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 32-3707, R.C.M. 1947, be amended to read as follows:

Special mobile equipment—exemptions—identification—application and fee—publicly owned equipment.

"32-3707. **Special mobile equipment—exemption from registration and payment of fees and charges—identification plate—application—fee—publicly owned special mobile equipment.**

(1) A person, firm, partnership, or corporation who owns, leases, or rents special mobile equipment as defined in section 53-642 and occasionally moves that equipment on, over, or across the highways of the state, shall not be subject to registration of that equipment or be required to pay the fees and charges provided for in the chapter 'state finance' [chapter 32 to 35 of this title]. Prior to any movement on the highways, however, each piece of equipment shall display an equipment identification plate attached thereto.

(2) Annual application for the identification plate shall be made to the county treasurer before any piece of equipment is moved on the highways. Application shall be made on a form furnished by the registrar of motor vehicles, together with the payment of a fee of five dollars ($5); *provided, that such equipment for which a special mobile equipment plate is sought, shall be subject to the assessment of personal property taxes either on the date application is made for such plate, if that date falls between the first day of January and the first Monday of March, or on the first Monday of March, provided further, that it is a condition precedent to the issuance of a special mobile equipment plate that the personal property taxes so assessed against the special mobile equipment, be paid.* The fees collected under this act shall belong to the county road fund.

HeinOnline -- 1967 vol. I 678 1967

(3) The identification plate shall expire on *March* 31 of each year.

(4) Publicly owned special mobile equipment, and implements of husbandry used exclusively by an owner in the conduct of his own farming operations, are exempt from the provisions of this section."

Section 2. That section 84-406, R.C.M. 1947, be amended to read as follows: Amending clause.

"84-406. **Time of assessment — motor vehicles — livestock.** Time of assessment— motor vehicles.

(1) The assessor must, between the first Monday of March and the second Monday of July in each year, ascertain the names of all taxable inhabitants, and assess all property in his county subject to taxation, except such as is required to be assessed by the state board of equalization, and must assess such property to the persons by whom it was owned or claimed, or in whose possession or control it was at twelve *midnight* of the first Monday of March next preceding, except that such procedure shall not apply to

(a) Motor vehicles which are required by subdivision (2) hereof to be assessed as of the first day of January; but no mistake in the name of the owner or supposed owner of real property renders the assessment thereof invalid.

(b) Livestock being fed in feeding pens or enclosures which may by subdivision (3) of this section be assessed on an average inventory basis. Credits must be assessed as provided in section 84-101, subdivision 6.

(c) Property defined in section 53-642 as 'special mobile equipment' shall be subject to assessment of personal property taxes either on the date that application is made for a special mobile equipment plate, if that date falls between the first day of January and the first Monday of March, or on the first Monday in March.

(2) The assessor must ascertain and assess all motor vehicles in his county subject to taxation as of January 1st in each year, and the same shall be assessed to the persons by whom owned or claimed, or in whose possession or control such vehicle was at twelve *midnight* of the first day of January in each year.

HeinOnline -- 1967 vol. I 679 1967

Nothing herein contained shall relieve the applicant for registration or reregistration of any motor vehicle so assessed or subject to assessment of the duty of paying taxes thereon as a condition precedent to registration or reregistration in the event said taxes have not been paid by any prior applicant or owner in all cases where required to be paid.

Livestock.

(3) The assessed value of livestock being fed in feeding pens or enclosures on the first Monday in March may be computed by adding the value of livestock more than six *(6)* months of age being fed on the last day of each month since the last assessment date and dividing the sum by twelve *(12)*."

Effective immediately.

Section 3. This act is effective on its passage and approval.

Approved: March 1, 1967.

CHAPTER 233

An Act Amending Sections 75-5203, 75-5206 and 75-5208, R.C.M. 1947, Relating to the Montana Law Enforcement Academy, to Provide Academy Session Periods To be Determined Annually by the Advisory Board; Authorizing the Advisory Board to Accept Grants; And Deleting a Portion of Section 75-5208, R.C.M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 75-5203, R.C.M. 1947, is amended to read as follows:

Amending clause.

"75-5203. **Establishment of Montana law enforcement academy.** There is hereby established a Montana law enforcement academy to be located at one of the units of the university of Montana, which unit shall be selected in the manner hereinafter provided. This academy shall be in session for a period *to be annually determined by the advisory board.*"

Montana law enforcement academy.

Section 2. Section 75-5206, R.C.M. 1947, is amended to read as follows:

Amending clause.

"75-5206. **Powers and duties of the Montana law enforcement academy advisory board.** The Montana law enforcement academy advisory board shall have the power and it shall be its duty to:

Powers of advisory board.

1. Establish rules and regulations for the government and conduct of the advisory board.

HeinOnline -- 1967 vol. I 680 1967

2. Choose a site for the Montana law enforcement academy at the unit of the university of Montana which in the determination of the board is best suited for the needs of the academy.

3. Establish qualifications for admission to the academy.

4. Select from among the qualified applicants those officers who are to attend the academy each year.

5. Determine the curriculum and methods of training for the officers attending the academy.

6. Select a faculty for the academy.

7. Establish rules for the conduct of the officers at the academy.

8. Award appropriate certificates to the officers who successfully complete their training; which certificate shall be signed by the chairman of the advisory board, the attorney general of the state of Montana and the president of the selected university unit.

9. Provide for the keeping of permanent records of enrollment, attendance, graduation and such other records as the board may deem necessary.

10. Make a yearly report in writing of the activities of the academy. Copies of this report shall be sent to the governor, attorney general, and secretary of state of the state of Montana.

11. Do all other things necessary and desirable for the establishment and operation of the academy not inconsistent with this act or the constitution and statutes of the state of Montana.

12. Accept and expend grants from federal, state, county and city governments or private persons, associations or corporations."

Section 3. Section 75-5208, R.C.M. 1947, is amended to read as follows: **Amending clause.**

"75-5208. **Expenditure of funds.** The expenditure of funds by any city, town, municipality or county for the board, room and travel expenses of the officers attending the academy shall be a lawful expenditure. **Expenditure of funds.**

Approved: March 1, 1967.

HeinOnline -- 1967 vol. I 681 1967

CHAPTER 234

An Act to Amend the Montana Uniform Gifts to Minors Act, Authorizing Gifts of Life Insurance Policies and Annuity Contracts; Providing for the Designation of Successor Custodians; Enlarging the List of Financial Institutions that May Act as Eligible Depositories; Amending Sections 67-1801, 67-1802, 67-1803, 67-1804, 67-1806, 67-1807, 67-1810, 67-1811, R.C.M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 67-1801, R.C.M. 1947, is amended to list the following definitions in alphabetical order and to reletter the other subsections accordingly.

"67-1801. **Definitions.** In this act, unless the context otherwise requires:

"Adult."

(a) An 'adult' is a person who has attained the age of twenty-one *(21)* years.

"Bank."

(b) A "bank' is a bank, trust company, national banking association, savings bank, industrial bank.

"Broker."

(c) A 'broker' is a person lawfully engaged in the business of effecting transactions in securities for the account of others. The term includes a bank which effects such transactions. The term also includes a person lawfully engaged in buying and selling securities for his own account, through a broker or otherwise, as a part of a regular business.

"Court."

(d) 'Court' means the district court of general jurisdiction in the state of Montana.

"Custodial property."

(e) *The* 'custodial property' includes:

(1) all securities, *life insurance policies, annuity contracts* and money under the supervision of the same custodian for the same minor as a consequence of a gift or gifts made to the minor in a manner prescribed in this act;

(2) the income from the custodial property; and

(3) the proceeds, immediate and remote, from the sale, exchange, conversion, investment, reinvestment, *surrender* or other disposition of such securities, money, *life insurance policies, annuity contracts* and income.

HeinOnline -- 1967 vol. I 682 1967

(f) A 'custodian' is a person so designated in a manner prescribed in this act*; the term includes a successor custodian.* "Custodian."

(g) *A 'financial institution' is a bank, a federal savings and loan association, a savings institution chartered and supervised as a savings and loan or similar institution under federal laws or the laws of a state or a federal credit union or a credit union chartered and supervised under the laws of a state; a 'domestic financial institution' is one chartered and supervised under the laws of this state or chartered and supervised under federal law and having its principal office in this state; an 'insured financial institution' is one, deposits (including a savings, share, certificate or deposit account) in which are, in whole or in part, insured by the federal deposit insurance corporation, by the federal savings and loan insurance corporation, or by a deposit insurance fund, approved by this state.* "Financial institution."

(h) A 'guardian' of a minor *means* the general guardian, guardian tutor or curator of his property, *or* estate *appointed or qualified by a court of this state or another state.* "Guardian."

(i) An 'issuer' is a person who places or authorizes the placing of his name on a security (other than as a transfer agent) to evidence that it represents a share, participation or other interest in his property or in an enterprise or to evidence his duty or undertaking to perform an obligation evidenced by the security, or who becomes responsible for or in place of any such person. "Issuer."

(j) A 'legal representative' of a person is his executor or the administrator, general guardian, guardian, committee, conservator, tutor or curator of his property or estate. "Legal representative."

(k) *A 'life insurance policy or annuity contract' means a life insurance policy or annuity contract issued by an insurance company authorized to do business in this state on the life of a minor to whom a gift of the policy or contract is made in the manner prescribed in this act or on the life of a member of the minor's family.* "Life insurance policy or annuity contract."

(l) A 'member' of a 'minor's family' means any of the minor's parents, grandparents, brothers, sisters, uncles and aunts, whether of the whole blood or the half blood, or by or through legal adoption. "Member" of a "minor's family."

HeinOnline -- 1967 vol. I 683 1967

"Minor." (m) A 'minor' is a person who has not attained the age of twenty-one *(21)* years.

"Security." (n) A security' includes any note, stock treasury stock, bond, debenture, evidence of indebtedness, certificate of interest or participation in an oil, gas or mining title or lease or in payments out of production under such title or lease, collateral trust certificate, transferrable share, voting trust certificate or, in general, any interest or instrument commonly known as a security, or any certificate of interest or participation in, any temporary or interim certificate, receipt or certificate of deposit for, or any warrant or right to subscribe to or purchase, any of the foregoing. The term does not include a security of which the donor is the issuer. A security is in 'registered form' when it specifies a person entitled to it or to the rights it evidences and its transfer may be registered upon books maintained for that purpose by or on behalf of the issuer.

"Transfer agent." *(o)* A 'transfer agent' is a person who acts as authenticating trustee, transfer agent, registrar or other agent for an issuer in the registration of transfers of its securities or in the issue of new securities, or in the cancellation of surrendered securities.

"Trust company." *(p)* A 'trust company' is a bank *or corporation* authorized to exercise trust powers in the state of Montana."

Section 2. Section 67-1802, R.C.M. 1947, is amended to read as follows:

Manner of making gift. '67-1802. **Manner of making gift.** (a) An adult person may, during his lifetime, make a gift of a security, *a life insurance policy or annuity contract* or money to a person who is a minor on the date of the gift:

(1) if the subject of the gift is a security in registered form, by registering it in the name of the donor, another adult person (an adult member of the minor's family, a guardian of the minor) or a trust company, followed in substance, by the words: 'as custodian for.....
(name of minor)
under the Montana Uniform Gifts to Minors Act';

(2) if the subject of the gift is a security not in registered form, by delivering it to an adult person other than the donor (an adult member, other than the donor, of the minor's family, a guardian of the minor) or a trust com-

HeinOnline -- 1967 vol. I 684 1967

pany, accompanied by a statement of gift in the following form, in substance, signed by the donor and the person designated as custodian:

'GIFT UNDER THE MONTANA UNIFORM GIFTS TO MINORS ACT

Form of statement of gift.

I, ..., hereby deliver to .....
(name of donor) (name of custodian)

as custodian for.....under the Montana Uni-
(name of minor)

form Gifts to Minors Act, the following security(ies): (insert an appropriate description of the security or securities delivered sufficient to identify it or them.)

.....
(signature of donor)

.....hereby acknowledges receipt of the
(name of custodian)

above described security(ies) as custodian for the above minor under the Montana Uniform Gifts to Minors Act.

Dated:.....

.....
(signature of custodian)'

(3) if the subject of the gift is money, by paying or delivering it to a broker or a *domestic financial institution* for a credit to an account in the name of the donor, another adult, (an adult member of the minor's family, a guardian of the minor) or a trust *company*, followed, in substance, by the words: 'as custodian for.....
(name of minor)

under the Montana Uniform Gifts to Minor's Act.'

(b) Any gift made in a manner prescribed in subsection (a) may be made to only one minor and only one person may be the custodian.

(c) A donor who makes a gift to a minor in a manner prescribed in subsection (a) shall promptly do all things within his power to put the subject of the gift in the possession and control of the custodian, but neither the donor's failure to comply with this subsection, nor his designation of an ineligible person as custodian, nor renunciation by the person designated as custodian affects the consummation of the gift;

HeinOnline -- 1967 vol. I 685 1967

(4) if the subject to the gift is a life insurance policy or annuity contract, by causing the ownership of the policy or contract to be registered with the issuing insurance company in the name of the donor, another adult, an adult member of the minor's family, a guardian of the minor or a trust company, followed, in substance, by the words: 'as custodian for..... under the Montana
(name of minor)
Uniform Gifts to Minors Act."

Amending clause.

Section 3. Section 67-1803, R.C.M. 1947, is amended to read as follows:

Effect of gift.

"67-1803. **Effect of gift.** (a) A gift made in a manner prescribed in this act is irrevocable and conveys to the minor indefeasibly vested legal title to the security, *life insurance policy, annuity contract,* or money given, but no guardian of the minor has any right, power, duty or authority with respect to the custodial property except as provided in this act.

(b) By making a gift in a manner prescribed in this act, the donor incorporates in his gift all the provisions of this act and grants to the custodian, and to any issuer, transfer agent, bank, *financial institution, life insurance company,* broker or third person dealing with a person designated as custodian, the respective powers, rights, and immunities provided in this act."

Section 4. Section 67-1804, R.C.M. 1947, is amended to read as follows:

Duties and powers of custodian.

"67-1804. **Duties and powers of custodian.** (a) The custodian shall collect, hold, manage, invest and reinvest the custodial property.

(b) The custodian shall pay over to the minor for expenditure by him, or expend for the minor's benefit, so much of or all the custodial property as the custodian deems advisable for the support, maintenance, education and benefit of the minor in the manner, at the time or times, and to the extent that the custodian in his discretion deems suitable and proper, with or without court order, with or without regard to the duty of himself or of any other person to support the minor or his ability to do so, and with or without regard to any other income or property of the minor which may be applicable or available for any such purpose.

HeinOnline -- 1967 vol. I 686 1967

(c) The court, on the petition of a parent or guardian of the minor or of the minor, if he has attained the age of fourteen *(14)* years, may order the custodian to pay over to the minor for expenditure by him or to expend so much of or all the custodial property as is necessary for the minor's support, maintenance or education.

(d) To the extent that the custodial property is not so expended, the custodian shall deliver or pay it over to the minor on his attaining the age of twenty-one *(21)* years, or if the minor dies before attaining the age of twenty-one *(21)* years, he shall thereupon deliver or pay it over to the estate of the minor.

(e) The custodian, notwithstanding statutes restricting investment by fiduciaries, shall invest and reinvest the custodial property as would a prudent man of discretion and intelligence who is seeking a reasonable income and the preservation of his capital, except that he may, in his discretion and without liability to the minor or his estate, retain a security given to the minor in a manner prescribed in this act *or hold money so given in an account in the financial institution to which it was paid or delivered by the donor.*

(f) The custodian may sell, exchange, convert, *surrender* or otherwise dispose of custodial property in the manner, at the time or times, for the price or prices and upon the terms he deems advisable. He may vote in person or by general or limited proxy a security which is custodial property. He may consent, directly or through a committee or other agent, to the reorganization, consolidation, merger, dissolution or liquidation of an issuer, a security which is custodial property, and to the sale, lease, pledge or mortgage of any property by or to such an issuer, and to any other action by such an issuer. He may execute and deliver any and all instruments in writing which he deems advisable to carry out any of his powers as custodian.

(g) The custodian shall register each security which is custodial property and in registered form in the name of the custodian, followed, in substance, by the words: 'as custodian for.....under the Montana Uni-
(name of minor)
form Gifts to Minors Act.' The custodian shall hold all money which is custodial property in an account with a

HeinOnline -- 1967 vol. I 687 1967

broker or in *an insured domestic financial institution* in the name of the custodian, followed, in substance, by the words: 'as custodian for.....under the Mon-
(name of minor)
tana Uniform Gifts to Minors Act.' The custodian shall keep all other custodial property separate and distinct from his own property in a manner to identify it clearly as custodial property.

(h) The custodian shall keep records of all transactions with respect to the custodial property and make them available for inspection at reasonable intervals by a parent or legal representative of the minor or by the minor, if he has attained the age of fourteen *(14)* years.

(i) A custodian has (and holds as powers in trust), with respect to the custodial property, in addition to the rights and powers provided in this act, all the rights and powers which a guardian has with respect to property not held as custodial property.

(j) If the subject of the gift is a life insurance policy or annuity contract, the custodian:

(1) in his capacity as custodian, has all the incidents of ownership in the policy or contract to the same extent as if he were the owner, except that the designated beneficiary of any policy or contract on the life of the minor shall be the minor's estate and the designated beneficiary of any policy or contract on the life of a person other than the minor shall be the custodian as custodian for the minor for whom he is acting; and

(2) may pay premiums on the policy or contract out of the custodial property."

Amending clause.

Section 5. Section 67-1806, R.C.M. 1947, is amended to read as follows:

Exemption of third persons from liability.

"67-1806. **Exemption of third persons from liability.** No issuer, transfer agent, bank, *life insurance company,* broker or other person *or financial institution* acting on the instructions of or otherwise dealing with any person purporting to act as a donor or in the capacity of a custodian is responsible for determining whether the person designated *as custodian* by the purported donor *or by the custodian* or purporting to act as a custodian has been duly designated or whether any purchase, sale, or transfer to or by or any other act of any person purporting to

HeinOnline -- 1967 vol. I 688 1967

act in the capacity of custodian is in accordance with or authorized by this act, or is obliged to inquire into the validity or propriety under this act of any instrument or instructions executed or given by a person purporting to act as a donor or in the capacity of a custodian, or is bound to see to the application by any person purporting to act in the capacity of custodian of any money or other property paid or delivered to him. *No issuer, transfer agent, bank, life insurance company, broker or other person or financial institution acting on any instrument of designation of a successor custodian, executed as provided in subsection (a) of section 7 of this act by a minor to whom a gift has been made in a manner prescribed in this act and who has attained the age of fourteen (14) years, is responsible for determining whether the person designated by the minor as successor custodian has been duly designated, or is obliged to inquire into the validity or propriety under this act of the instrument of designation."*

Amending clause.

Section 6. Section 67-1807, R.C.M. 1947, is amended to read as follows:

Resignation, death or removal of custodian—bond—designation of successor.

"67-1807. **Resignation, death or removal of custodian —bond**—*designation* **of successor custodian.**

(a) Only an adult member of the minor's family, a guardian of the minor or a trust company is eligible to become a successor custodian. *A custodian may designate his successor by executing and dating an instrument of designation before a subscribing witness other than the successor; the instrument of designation may, but need not, contain the resignation of the custodian. If the custodian does not so designate his successor before he dies or becomes legally incapacitated, and the minor has attained the age of fourteen (14) years, the minor may designate a successor custodian by executing an instrument of designation before a subscribing witness other than the successor.* A success custodian has all the rights, powers, duties and immunities of a custodian designated in a manner prescribed by this act.

(b) *The designation of a successor custodian as provided in subsection (a) takes effect as to each item of the custodial property when the custodian resigns, dies or becomes legally incapacitated and the custodian or his legal representative:*

HeinOnline -- 1967 vol. I 689 1967

(1) Causes the item if it is a security which is custodial property and in registered form *or a life insurance policy or annuity contract,* to be registered, *with the issuing insurance company in the case of a life insurance policy or annuity contract,* in the name of the successor custodian followed, in substance, by the words: 'as custodian for .....under the Montana Uniform Gifts to (name of minor)
Minors Act'; and

(2) delivers or causes to be delivered to the successor custodian *any* other *item of the* custodial property, together with *the instrument of designation of the successor custodian or a true copy thereof and* any additional instruments required for the transfer thereof *to the successor custodian.*

(c) *A custodian who executes an instrument of designation of his successor containing the custodian's resignation as provided in subsection (a) shall promptly do all things within his power to put each item of the custodial property in the possession and control of the successor custodian named in the instrument. The legal representative of a custodian who dies or becomes legally incapacitated shall promptly do all things within his power to put each item of the custodial property in the possession and control of the successor custodian named in an instrument of designation executed as provided in subsection (a) by the custodian or, if none, by the minor if he has no guardian and has attained the age of fourteen (14) years, or in the possession and control of the guardian of the minor if he has a guardian. If the custodian has executed as provided in subsection (a) more than one instrument of designation, his legal representative shall treat the instrument dated on an earlier date as having been revoked by the instrument dated on a later date.*

(d) If *a* person designated as custodian *or as successor custodian by the custodian as provided in subsection (a)* is not eligible, dies *or becomes legally incapacitated* before the minor attains the age of twenty-one *(21)* years *and if the minor has a guardian,* the guardian of the minor shall be successor custodian. If the minor has no guardian *and if no successor custodian who is eligible and has not died or become legally incapacitated has been desig-*

HeinOnline -- 1967 vol. I 690 1967

nated as provided in subsection (a), a donor, his legal representative of the custodian *or* an adult member of the minor's family may petition the court for the designation of a successor custodian.

(e) A donor, the legal representative of a donor, *a successor custodian,* an adult member of the minor's family, a guardian of the minor or the minor, if he has attained the age of fourteen *(14)* years, may petition the court that, for cause shown in the petition, the custodian be removed and a successor custodian be designated or, in the alternative, that the custodian be required to give bond for the performance of his duties.

(f) Upon the filing of a petition as provided in this section, the district court shall grant an order, directed to the persons and returnable on such notice as the court may require, to show cause why the relief prayed for in the petition should not be granted and, in due course, grant such relief as the court finds to be in the best interests of the minor."

Amending clause.

Section 7. Section 67-1810, R.C.M. 1947, is amended to read as follows:

Revised Montana Uniform Gift to Minor's Act.

"67-1810. **Short title.** This act may be cited as the *'Revised* Montana Uniform Gifts to Minors Act'."

Amending clause.

Section 8. Section 67-1811, R.C.M. 1947, is amended to read as follows:

Vested rights not to be impaired.

"67-1811. **Vested rights not to be impaired.** Nothing in this act shall be construed to impair constitutionally vested rights. *The provisions of the act hereby amended as hereby amended shall be construed as a continuation of the act hereby amended according to the language employed and not as a new enactment. This amendment of the act hereby amended does not affect gifts made in a manner prescribed therein nor the powers, duties or immunities conferred by gifts in such manner upon custodians and persons dealing with custodians. The provisions of the act hereby amended as hereby amended henceforth apply, however, to all gifts made in a manner and form prescribed in the act hereby amended except insofar as such application impairs constitutionally vested rights."*

Approved: March 1, 1967.

HeinOnline -- 1967 vol. I 691 1967

CHAPTER 235

An Act Providing for Reimbursement to Counties for Loss of Revenue Because of Tax Exempt Status of State Owned Land in Excess of Six Percent (6%) of the Total Land Area; Providing for Procedures to Effectuate This Purpose; Prescribing the Duties of the Commissioner of State Lands and Investments, County Assessors and the State Controller; Limiting the Maximum Payments; and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Commissioner of state lands and investments shall furnish statement to county assessors if state has 6% of land in county.

Section 1. The commissioner of state lands and investments for the state of Montana shall, on or before the first Monday of April of every year, prepare and transmit a statement to the county assessor of each county in the state of Montana wherein the state of Montana has real property in excess of six percent (6%) of the total land area of the county and from which the state of Montana derives grazing, agricultural or forest income. The statement shall contain the total number of acres owned by the state in that county and it shall list the acres separately as grazing, agricultural or forest land.

Computation of taxes.

Section 2. The county assessor shall compute the amount of taxes which would be payable on the county assessments of said property as if it were owned by, and taxable to, a taxpayer of such county; provided that, if the land is not classified, the sum to be listed shall be determined by the average tax payment made on like property within the county where said land is situated, not to exceed twelve cents ($.12) per grazing acre, thirty-five cents ($.35) per agricultural acre, and twelve cents ($.12) per forest acre. The average tax may be derived from the most recent biennial report of the state board of equalization. The total figure arrived at by this method shall be called the gross assessment figure. The county exemption factor shall be determined by dividing the percentage the state owned land bears to the total land area of the county into six percent (6%). This quotient shall be multiplied by the gross assessment figure and the product is called the state exemption figure. The state exemption figure shall be subtracted from the gross assessment to give the state land equalization payment.

HeinOnline -- 1967 vol. I 692 1967

Form.

Section 3. The commissioner of state lands and investments shall provide a form to be followed and completed by the county assessor. The county assessor shall, on or before the first day of October, follow the form of the commissioner and make the computations required and shall submit to the commissioner the completed form which shall show the computations and method used in arriving at the state land equalization payment.

Examination of statements.

Section 4. The commissioner of state lands and investments shall examine the statement returned by the county assessor for accuracy, and in no case shall the state land equalization payment be approved unless the state exemption figure is deducted from the gross assessment figure in the statement. The commissioner of state lands and investments shall, on or before November 1 of each year, prepare and file a claim with the state controller for all counties who are eligible for state land equalization payments, and this claim shall show the amount of money each eligible county will receive.

Payment.

Section 5. The state controller shall, on or before the first day of December, approve and authorize the issuance of a warrant on the general fund of the state of Montana made payable to the county treasurer of the counties shown on the claim for the payment of the state land equalization payment.

Distribution of money.

Section 6. The county treasurer shall distribute the money received under this act within their county as hereinafter provided; sixty percent (60%) of total payment shall be broken down into cents per acre of total state owned land within the county, and apportioned between the elementary school districts in accordance with the amount of state owned land in each elementary district. Forty percent (40%) shall be allotted to the county road fund.

School district money.

Section 7. The money received by any school district under this act shall be designated as district money for the general maintenance and operation of the elementary schools of the district. Such money may be used by the district as all other cash balances are used, in accordance with the provisions of section 75-3618, R.C.M. 1947.

Effective January 1, 1968.

Section 8. This act is effective January 1, 1968.

Approved: March 1, 1967.

HeinOnline -- 1967 vol. I 693 1967

CHAPTER 236

An Act to Amend Chapter 24 of Title 66, R.C.M. 1947, by Adding a New Section Thereto Establishing a Fixture Fee to Be Used for the Inspection and Enforcement of the State Plumbing Code and Authorizing a State Plumbing Inspector, and Providing for a Penalty for Failure to Pay the Fixture Fee Established; and Repealing Acts or Parts of Acts in Conflict Herewith; and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That chapter 24 of title 66, R.C.M. 1947, be amended by incorporating therein a new section to read as follows:

Fixture fees.

Fixture fees. For the purpose of providing adequate inspection and enforcement of the state plumbing code provided for in this chapter there shall be collected a fixture fee of fifty cents ($.50) per fixture for every fixture installed under the direction of a master plumber after the effective date of this act. For this purpose, a fixture shall mean any device connected by a water connection to a water system or by a trap to a sewer line. This fixture fee shall be payable before installation by the licensed master plumber responsible for installation of the fixture. It shall be payable to the state plumbing board under regulations prescribed by the board for the purpose set forth herein, and the board may assign the inspection and enforcement of the state plumbing code and collection of such fees to a state plumbing inspector, and such deputies as may be reasonably necessary to accomplish adequate inspection, enforcement and collection. Installation of fixtures as defined herein by a licensed master plumber without payment of the fee herein provided shall subject such master plumber to a fine of one hundred dollars ($100) for each offense or to forfeiture of his bond under section 66-2405.

Severability clause.

Section 2. If any part of this act shall for any reason be held invalid or unenforceable, the invalidity or unenforcibility thereof shall not affect any of the remaining parts of this act.

Repealing clause.

Section 3. All acts or parts of acts in conflict herewith are hereby repealed.

HeinOnline -- 1967 vol. I 694 1967

Section 4. This act is effective upon its passage and approval. Effective immediately.

Approved: March 1, 1967.

CHAPTER 237

An Act Amending Section 3-103, 41-1603, 46-2305, 71-203, 77-117, 77-120, 77-1304, 81-209, 81-1403, 82-1011, 82-1519, 82-2702, 84-702, 89-103.3, 92-104 and 94-9825, R.C.M. 1947, to Fix the Salaries of Appointed Officials.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 3-103, R.C.M. 1947, is amended to read as follows: Amending clause.

"3-103. **Salary, and office of commissioner.** Before entering upon the duties of his office, the commissioner of agriculture shall take and subscribe the constitutional oath of office. The commissioner shall receive an annual salary *in such amount as may be specified by the legislative assembly in the appropriation to the department of agriculture. If the legislative assembly does not specify the maximum salary of the commissioner, any increase in the salary of the commissioner must be approved by the board of examiners. Before approving any salary increase the board of examiners shall review the salaries of comparable positions in Montana state government, other states, and private industry. The salary shall be* payable in the same manner as the salaries of other state officers, and shall be allowed such expenses as may be actually and necessarily incurred in the performance of his duties. He shall maintain his office at the state capitol." Salary and office of commissioner of agriculture.

Section 2. Section 41-1603, R.C.M. 1947, is amended to read as follows: Amending clause.

"41-1603. **Commissioner of labor and industry—term—salary—oath.** The term of office of the commissioner of labor and industry shall be four (4) years and until his successor is appointed and qualified. The commissioner shall receive an annual salary *in such amount as may be specified by the legislative assembly in the appropriation to the department of labor and industry. If the legislative assembly does not specify the maximum salary of the com-* Commissioner of labor and industry—term—salary—oath.

HeinOnline -- 1967 vol. I 695 1967

missioner, any increase in the salary of the commissioner must be approved by the board of examiners. Before approving any salary increase, the board of examiners shall review the salaries of comparable positions in Montana state government, other states, and private industry. The salary shall be payable monthly. Before entering on the duties of his office, he must take and subscribe to the oath of office prescribed by section 1, article XIX of the Montana constitution."

Amending clause.

Section 3. Section 46-2305, R.C.M. 1947, is amended to read as follows:

Secretary of grass conservation commission—compensation.

"46-2305. **Secretary — compensation.** The commission shall select and appoint a secretary at a salary *in such amount as may be specified by the legislative assembly in the appropriation to the grass conservation commission. If the legislative assembly does not specify the maximum salary of the secretary, it shall be fixed by the commission after approval by the board of examiners. Before approving any salary increase the board of examiners shall review the salaries of comparable positions in Montana state government, other states, and private industry.* The secretary shall be the executive officer of the commission and shall be controlled and directed by the rules and regulations established by the commission from time to time and applicable to the duties of his office.

Amending clause.

Section 4. Section 71-203, R.C.M. 1947, is amended to read as follows:

Powers and duties of state board of public welfare—salary of state administrator.

"71-203. **Powers and duties of the state board.**

(1) In cooperation with the governor the state board shall select and appoint an administrative officer for the state department of public welfare who shall be known as the state administrator and who shall have such tenure of office, salary and administrative per diem and travel expense as the state board may establish, with the exception that the salary of said state administrator shall *be in such amount as may be specified by the legislative assembly in the appropriation to the department of public welfare. If the legislative assembly does not specify the maximum salary of the administrator it shall be fixed by the state board of public welfare after approval by the board of examiners. Before approving any salary increase the board of examiners shall review the salaries of comparable posi-*

HeinOnline -- 1967 vol. I 696 1967

tions in Montana state government, other states, and private industry. The state administrator shall be selected and appointed with due regard to the education, training and ability necessary in public welfare administration and and organization and shall have been a resident of the state of Montana at least five *(5)* years prior to his appointment.

(2) Within six *(6)* months after the adoption and approval of this act it shall be the duty of the state board to establish and maintain minimum standards of service and personnel and to formulate salary schedules for the classified personnel, based upon training, experience and ability, for employees selected for positions in the state office of the state department and in county departments.

A merit system when practical but not later than one (1) year from and after the effective date of this act shall be established and maintained pertaining to qualifications for appointments, tenure of office, annual merit ratings, releases, promotions and salary schedules and the state board shall cause examinations to be held from time to time throughout the state for the purpose of establishing an available qualified list in order of merit of persons eligible for appointment. Personnel standards shall conform in so far as possible with general standards as established or required by the federal social security board."

Amending clause.

Section 5. Section 77-117, R.C.M. 1947, is amended to read as follows:

Adjutant general of state—assistants—salaries.

"77-117. **The adjutant general of the state—assistant adjutants general.** There shall be an adjutant general of the state of Montana, who shall be appointed by the governor, and shall have the rank of major general. He shall hold office for the term for which the governor appointing him shall have been elected, and until his successor shall have been appointed. He shall be selected from the active list of the national guard of this state and shall have been federally recognized in the rank of major or above immediately prior to his appointment. He shall have had at least ten (10) years of service as an officer of the active national guard of this state during the fifteen (15) years immediately prior to his appointment. He shall perform the duties prescribed for him in this chapter and in the regulations now or hereafter

HeinOnline -- 1967 vol. I 697 1967

issued thereunder, and in the statutes of the United States now or hereafter enacted, and such duties as pertain to the duties of the chiefs of staff departments. The salary of the adjutant general shall be *in such amount as may be specified by the legislative assembly in the appropriation to the adjutant general. If the legislative assembly does not specify the maximum salary of the adjutant general, any increase in the salary of the adjutant general must be approved by the board of examiners. Before approving any salary increase, the board of examiners shall review the salaries of comparable positions in Montana state government, other states, and private industry,* provided, however, that no part of said salary shall be paid by the state when the adjutant general is on extended active duty with the United States military service or is receiving pay as a civilian employee of the federal government; provided that if, by reason of the call or draft of officers of the Montana national guard into the federal service, there are no officers of the national guard possessing the requisite qualifications as set forth above for appointment, then any officer of the national guard may be appointed as acting adjutant general.

The adjutant general shall establish, within the state headquarters of the Montana national guard, separate departments for the army national guard and the air national guard. Each department shall have a brigadier general at its head, who will be referred to as assistant adjutant general for Montana army national guard and assistant adjutant general for Montana air national guard. The assistant adjutants general shall be appointed by the adjutant general with the approval of the governor. One *(1)* shall be selected from the active list of the Montana army national guard and the other from the active list of the Montana air national guard, and each must have the qualifications set forth above for appointment as adjutant general. They shall perform such duties as are prescribed by the adjutant general."

Amending clause.

Section 6. Section 77-120, R.C.M. 1947, is amended to read as follows:

Duties and salary of adjutant general.

"77-120. **Duties of adjutant general—salary.** The adjutant general shall be ex officio chief of staff. He shall hold office until his successor is appointed and qualified. He shall appoint the civilian employees of his department, and may remove any of them in his discretion.

HeinOnline -- 1967 vol. I 698 1967

The expenses of the adjutant general's department, necessary to the military service, shall be audited, allowed, and paid as other military expenditures are audited, allowed, and paid.

1. The adjutant general shall keep a roster of all active, reserve, and retired officers of the militia of the state, and keep in his office all records and papers required to be kept and filed therein, and shall submit to the governor, during December of each even-numbered year, a printed biennial report of the operations and conditions of the organized militia of Montana.

2. He shall cause the military law, the regulations of the organized militia of Montana, and such other military publications as may be necessary for the military service, to be printed, indexed, and bound at expense of the state, and distributed to the commissioned officers of the organized militia of Montana.

3. He shall keep and preserve the books, arms, accoutrements, ammunition, and other military property belonging to the state, not properly issued.

4. He shall keep just and true accounts of all moneys received and disbursed by him.

5. He shall attest all commissions issued to military officers of this state.

6. He shall make out and transmit all militia reports, returns, and communications prescribed by acts of congress or by direction of the secretary of war.

7. He shall have a seal, and all copies, orders, records, and papers in his office, duly certified and authenticated under said seal, shall be evidence in all cases in like manner as if the originals were produced. The seal now used in the office of the adjutant general shall be the seal of his office, and shall be delivered by him to his successor. All orders issued from his office shall be authenticated with said seal.

8. He shall make such regulations pertaining to the preparation of reports and returns, and to the care and preservation of property in possession of the state for military purposes, whether belonging to the state or to the United States, as in his opinion the conditions demand.

9. He shall attend to the care, preservation, safekeeping, and the repairing of the arms, ordnance, accou-

HeinOnline -- 1967 vol. I 699 1967

trements, equipment, and all other military property belonging to the state, or issued to the state by the government of the United States for military purposes, and keep accurate accounts thereof. All military property of the state, which after proper inspection shall be found unsuitable for use of the state, shall be disposed of in such manner as the governor shall direct, and the proceeds thereof paid into the military fund of the state.

10. He shall issue such military property as the necessity of the service requires, and make purchases for that purpose. No military property shall be issued or loaned except upon an emergency to persons or organizations other than those belonging to the organized militia of Montana, except to such portions of the unorganized militia as may be called out by the governor.

11. He shall keep on file in his office the reports and returns of troops and heads of military departments, and all other writings and papers required to be transmitted to and preserved at the general headquarters of the state militia.

12. The annual salary of the assistant adjutant general shall be in such amount as may be specified by the legislative assembly in the appropriation to the adjutant general. If the legislative assembly does not specify the maximum salary of the assistant adjutant general, any increase in the salary of the assistant adjutant general must be approved by the board of examiners. Before approving any salary increase, the board of examiners shall review the salaries of comparable positions in Montana state government, other states, and private industry.

Amending clause.

Section 7. Section 77-1304, R.C.M. 1947, is amended to read as follows:

State civil defense agency—director and salary.

"77-1304. **State civil defense agency.** (a) There is hereby created in the state adjutant general's department, a civil defense agency, with a director of civil defense (hereinafter called the 'director') who shall be the head thereof. The director shall be appointed by, and shall hold office at the pleasure of the governor, and shall be compensated at a salary to be fixed *by the legislative assembly in the appropriation to the adjutant general. If the legislative assembly does not specify the maximum salary of the director of civil defense, any increase in the salary of the director must be approved by the board*

HeinOnline -- 1967 vol. I 700 1967

of examiners. Before approving any salary increases the board of examiners shall review the salaries of comparable positions in Montana state government, other states, and private industry. The director shall devote his full time and energies to the duties of director of civilian defense including cooperation and coordination with the commander of the home guard.

(b) The director may employ such technical, clerical, stenographic and other personnel and fix their compensation, and may make such expenditures as may be necessary to carry out the purposes of this act.

(c) The director and other personnel of the civil defense agency shall be provided with appropriate office space, furniture, equipment, supplies, stationery and printing in the same manner as provided for personnel of other state agencies.

(d) The director shall be the executive head of the civil defense agency and shall be responsible to the governor for carrying out the program for civil defense of this state. He shall coordinate the activities of all organizations for civil defense within the state, and shall maintain liaison with and cooperate with civil defense agencies and organizations of other states, of the federal government, and Canada, and shall have such additional authority, duties, and responsibilities authorized by this act as may be prescribed by the governor.

(e) In providing assistance hereunder, state agencies shall cooperate to the fullest extent possible with each other and with local governments, relief agencies, and the American National Red Cross, but nothing contained in this act shall be construed to limit or in any way affect the responsibilities of the American National Red Cross under the act approved January 5, 1905 (33 Stat. 559), as amended."

Section 8. Section 81-209, R.C.M. 1947, is amended to read as follows:

Amending clause.

"81-209. **Salary and compensation.** The salary of the commissioner shall be payable monthly. *The salary of the commissioner shall be in such amount as may be specified by the legislative assembly in the appropriation to the commissioner of state land and investments. If the legislative assembly does not specify a maximum salary for the commissioner, it shall be fixed by the state board*

Salary and compensation of commissioner of lands and investments.

HeinOnline -- 1967 vol. I 701 1967

of land commissioners after approval by the board of examiners. Before approving any salary increase, the board of examiners shall review the salaries of comparable positions in Montana state government, other states, and private industry. The commissioner of state lands and investments shall be paid actual and necessary expenses while engaged in the performance of official duties outside of the state capitol."

Amending clause.

Section 9. Section 81-1403, R.C.M. 1947, is amended to read as follows:

State forester—appointment—compensation—term—assistants.

"81-1403. **State forester—appointment—compensation—term—assistants.** The governor, by and with the advice and consent of the senate, shall appoint a state forester to have general charge of all the state's forest. He shall be technically trained and experienced in forestry and a graduate of an accredited forestry school, and his salary shall *be in such amount as may be specified by the legislative assembly in the appropriation to the state forester,* together with the actual, necessary expenses while engaged in outside work in connection with his office and its duties as defined by law and the regulations of the state board of land commissioners and the state board of forestry. *If the legislative assembly does not specify the maximum salary of the state forester, his salary shall be fixed by the state board of forestry after approval by the board of examiners. Before approving any salary increase, the board of examiners shall review the salaries of comparable positions in Montana state government, other states, and private industry.* Such expenses shall be payable monthly from the state's general fund and/or the appropriations made to those other boards to which he, by law, has been designated secretary or executive officer. His term of office shall be for four (4) years. With the consent and approval of the state board of land commissioners the state forester shall appoint and fix the salaries and expenses of such office help, district foresters, firewardens, cruisers, scalers, slash disposal men, and such other trained and qualified assistants as may be necessary in the administration of the state forests and the forested lands within the state. Provided, however, that consent and approval of such appointments by any board shall be restricted to those appointments made for the purposes of that board as defined by law."

HeinOnline -- 1967 vol. I 702 1967

Section 10. Section 82-1011, R.C.M. 1947, is amended to read as follows:

Amending clause.

"82-1011. **Salary and expenses.** The salary of the state examiner, for all services rendered in any capacity whatever, shall be *in such amount as may be specified by the legislative assembly in the appropriation to the state examiner*, and in addition thereto the state shall pay the necessary office and travel expenses of himself and assistants. *If the legislative assembly does not specify the maximum salary of the state examiner an increase in the salary of the state examiner must be approved by the board of examiners. Before approving any salary increase, the board of examiners shall review the salaries of comparable positions in Montana state government, other states, and private industry.*"

Salary and expenses of state examiner.

Section 11. Section 82-1519, R.C.M. 1947, is amended to read as follows:

Amending clause.

"82-1519. **Compensation of chairman and officers—financial report.** It shall be the duty of all public officers to perform the duties relative to hail insurance under this act, without other compensation than that allowed by law. The chairman of the state board of hail insurance shall receive a salary *in such amount as may be specified by the legislative assembly in the appropriation to the board of hail insurance* and all appointed officers and employees under this act shall be allowed the per diem and mileage allowed state employees. The compensation of all appointed officers and employees of the board shall be fixed by the state board of hail insurance. *If the legislative assembly does not specify the maximum salary for the head of the agency, the salary shall be fixed by the state board of hail insurance after approval by the board of examiners. Before approving any salary increase, the board of examiners shall review the salaries of comparable positions in Montana state government, other states, and private industry.*

Board of hail insurance—compensation of chairman and officers—financial report.

The chairman of the state board of hail insurance shall each year submit a full financial report of the operations of the department to the governor of the state."

Section 12. Section 82-2702, R.C.M. 1947, is amended to read as follows:

Amending clause.

"82-2702. **Office of state coordinator of Indian affairs created—appointment of coordinator—term—salary—of-**

State coordinator of Indian affairs—appointment, term and salary.

HeinOnline -- 1967 vol. I 703 1967

fice. The office of the state coordinator of Indian affairs is hereby created. The coordinator shall be appointed by the governor from a list of five *(5)* qualified persons agreed upon by the tribal councils of the respective Indian tribes of the state of Montana. He shall hold such office for a term of four *(4)* years and shall be paid a salary *in such amount as may be specified by the legislative assembly in the appropriation to the coordinator of Indian affairs. If the legislative assembly does not specify the maximum salary for the coordinator, any increase in the salary of the coordinator must be approved by the board of examiners. Before approving any salary increase the board of examiners shall review the salaries of comparable positions in Montana state government, other states and private industry.* He shall maintain his office at the state capitol in Helena, Montana."

Amending clause.

Section 13. Section 84-702, R.C.M. 1947, is amended to read as follows:

Board of equalization—qualifications and compensation.

"84-702. **Qualification and compensation.** The persons to be appointed as members of the board of equalization shall be such as are known to possess knowledge of the subject of taxation and skill in matters pertaining thereto. No person so appointed shall hold any other office under the laws of this state nor any other state, nor any office under government of the United States, or of any other state. He shall devote his entire time to the duties of the office and shall not hold any position of trust or profit, nor engage in any occupation or business interfering or inconsistent with his duties, or serve on or under any committee of any political party, or take part either directly or indirectly in any political campaign in the interest of any political party, or organization or candidate for office. Each member shall receive an annual salary *in such amount as may be specified by the legislative assembly in the appropriation to the board of equalization. If the legislative assembly does not specify the maximum salary of board members, any increase in the salary of board members must be approved by the board of examiners. Before approving any salary increase, the board of examiners shall review the salaries of comparable positions in Montana state government, other states, and private industry. The salary shall be* payable in equal monthly installments. The member elected chairman as provided for in 84-703 shall receive additional compen-

HeinOnline -- 1967 vol. I 704 1967

sation of not more than five hundred dollars ($500) per annum payable in the same manner as the salary. He shall also be paid his actual traveling and other expenses when away from the capitol on official business."

Section 14. Section 89-103.3, R.C.M. 1947, is amended to read as follows: Amending clause.

"89-103.3. **Salaries of director and employees of board.** the salary of the director shall *be in such amount as may be specified by the legislative assembly in the appropriation to the state water conservation board. If the legislative assembly does not specify the maximum salary for the director, it shall be fixed by the state water conservation board after approval by the board of examiners. Before approving any salary increase, the board of examiners shall review the salaries of comparable positions in Montana state government, other states and private industry.*" Water conservation board—salaries of director and employees.

Section 15. Section 92-104, R.C.M. 1947, is amended to read as follows: Amending clause.

"92-104. **Industrial accident board — compensation — terms and salaries.** There is hereby created a board to consist of three (3) members. The commissioner of labor and industry shall be one (1) member, the director of the bureau of vocational rehabilitation shall be one (1) member, and one (1) member shall be appointed by the governor, by and with the consent of the senate. The board shall be known as the industrial accident board and shall have the powers, duties, and functions hereinafter conferred. The term of office of the appointed members of the board shall be four (4) years and until his successor shall have been appointed and confirmed. He shall receive an annual salary *in such amount as may be specified by the legislative assembly in the appropriation to the industrial accident board,* payable monthly and shall be chairman of the board. *If the legislative assembly does not specify the maximum salary for the chairman of the board, it shall be fixed by the board after approval by the board of examiners. Before approving any salary increase, the board of examiners shall review the salaries of comparable positions in Montana state government, other states, and private industry.* The board shall elect one *(1)* of their own number as treasurer of the board." Industrial accident board—compensation, terms and salaries.

Section 16. Section 94-9825, R.C.M. 1947, is amended to read as follows: Amending clause.

HeinOnline -- 1967 vol. I 705 1967

Board of pardons —salaries of director and employees.

"94-9825. **Director and employees—salaries to be paid monthly—approval and auditing.** The board shall appoint a state director of probation and parole, hereinafter referred to as the 'director' who shall appoint, with the approval of the board, an assistant director, probation and parole officers and other employees required to administer the provisions of this act. The director shall receive an annual salary *in such amount as may be specified by the legislative assembly in the appropriation to the board of pardons* payable monthly, which shall include compensation for all services rendered as interstate compact administrator. *If the legislative assembly does not specify the maximum salary of the state director in the appropriation to the board of pardons, it shall be fixed by the board after approval by the board of examiners. Before approving any salary increase, the board of examiners shall review the salaries of comparable positions in Montana state government, other states, and private industry.* All other officers and employees of the board shall receive such compensation for their services as may be fixed by the board. All officers and employees of the board shall hold office at the pleasure of the board and shall perform such duties as are imposed on them by law or by the board.

The salaries of all officers and employees of the board shall be paid monthly after such salaries have been approved by the board upon claims therefor."

Approved: March 1, 1967.

CHAPTER 238

An Act Removing the Seven Thousand Dollars ($7,000) Limit on the Salary Used to Compute Benefits Under the Teachers' Retirement System and to Provide an Additional Annuity Payment to Beneficiaries; Amending Section 75-2701, R.C.M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 75-2701, R.C.M. 1947, is amended to read as follows:

"75-2701. **Definitions.** The following words and phrases used in this act shall have the following meanings unless a different meaning is plainly required by the content:

HeinOnline -- 1967 vol. I 706 1967

(1) "Retirement system" shall mean the teachers' retirement system of the state of Montana provided for in section 75-2702. "Retirement system."

(2) "Retirement board" shall mean the retirement board provided by section 75-2703 to administer the retirement system. "Retirement board."

(3) "Employer" shall mean the state of Montana or the board of trustees of any school district employing teachers subject to the provisions of this act; or other agency of and within the state by which the teacher is paid. "Employer."

(4) "Teacher" shall mean any teacher in the public elementary and high schools of the state, and the university of Montana, as constituted in accordance with section 75-401, including all kindergarten teachers in the public schools, and shall include any school librarian or physical training teacher, principal, vice-principal, supervisor, superintendent, county superintendent of schools, and any other member of the teaching or professional staff of any public elementary or high school of this state, and any administrative officer or member of the instructional or scientific staff of the university of Montana; provided that no person shall be deemed a teacher within the meaning of this act who is not so employed for full time outside vacation periods. The word "teacher" shall also include any person employed in the office of or by the superintendent of public instruction in the performance of duties pertaining to instructional services. In all cases of doubt, the retirement board shall determine whether any person is a teacher as defined in this act. "Teacher."

(5) "Member" shall mean any person included in the membership of the system as provided in section 75-2704. "Member."

(6) "Service" shall mean service as a teacher as described in subsection (4) of this section and paid for by an employer as described in subsection (3) of this section. "Service."

(7) "Prior service" shall mean service as "teacher" or in a similar capacity outside of the state, rendered prior to the date of establishment of the system, and in case of teachers in the university of Montana rendered prior to September 1, 1939, for which credit is allowable "Prior service."

HeinOnline -- 1967 vol. I 707 1967

as provided in section 75-2705; provided, further, that any teacher, mustered into or serving in the military forces of the United States government during the period of war, shall receive "prior service credit" for such period of service.

"Membership service." (8) "Membership service" shall mean service as a teacher rendered while a member of the retirement system.

"Creditable service." (9) "Creditable service" shall mean prior service plus membership as provided in section 75-2705.

"Beneficiary." (10) "Beneficiary" shall mean any person in receipt of a pension, annuity, a retirement allowance, or other benefit as provided by this act.

"Regular interest." (11) "Regular interest" shall mean interest at four per centum per annum compounded annually, or at such other rate as may be set by the retirement board in accordance with subsection (2) of section 75-2708.

"Accumulated contributions." (12) "Accumulated contributions" shall mean the sum of all the amounts deducted from the compensation of a member or paid by a member as provided for in sections 75-2705 and 75-2709, and credited to his individual account in the annuity savings fund, together with interest. Regular interest shall be computed and allowed to provide a benefit at the time of retirement. Interest at the rate of three-fourths the regular rate shall be computed and credited to the pension accumulation fund when withdrawn for any other purpose subsequent to July 1, 1945.

"Earnable compensation." (13) "Earnable compensation" shall mean the full rate of the compensation, pay or salary that would be payable to a teacher if he worked the full normal working time provided that any teacher who received a salary or compensation in excess of *seven thousand dollars ($7,000)* per annum subsequent to July 1, *1965* may use such salary as a basis of compensation for the purpose of this system if (a) he contributes five per cent (5%) of the excess of such salary subsequent to July 1, *1965, over seven thousand dollars ($7,000)* to his individual account in the annuity savings fund and (b) he contributes three and one-half per cent (3½%) of the excess of his salary subsequent to July 1, *1965, over seven thousand dollars ($7,000)* to the pension accumulation fund. In cases where compensation includes maintenance, the retirement board

HeinOnline -- 1967 vol. I 708 1967

shall fix the value of that part of the compensation not paid in money.

"Average final compensation."

(14) "Average final compensation" shall mean the average annual compensation, pay or salary on which the five per cent (5%) contribution has been made by a member during any three (3) consecutive years as a teacher.

"Medical board."

(15) "Medical board" shall mean the board of physicians provided for in section 75-2703.

"Annuity."

(16) "Annuity" shall mean payments for life derived from the accumulated contribution of a member as provided in this act. All annuities shall be paid in equal monthly installments. *The Board may make an annual payment to the beneficiaries of the difference between the rate of interest used in calculating the benefit from the annuity reserve fund and the rate of interest earned on investments.*

"Pension."

(17) "Pension" shall mean payments for life derived from money provided by the employer as defined in this act. All pensions shall be paid in equal monthly installments.

"Retirement allowance."

(18) "Retirement allowance" shall mean the annuity plus the pension.

"Annuity reserve."

(19) "Annuity reserve" shall mean the present value of all payments to be made on account of a member's annuity granted under the provisions of this act, computed upon the basis of such mortality tables as shall be adopted by the retirement board and regular interest.

"Pension reserve."

(20) "Pension reserve" shall mean the present value of all payments to be made on account of a pension granted under the provisions of this act, computed on the basis of such mortality tables as shall be adopted by the retirement board with regular interest.

"Actuarial equivalent."

(21) "Actuarial equivalent" shall mean a benefit of equal value when computed upon the basis of such mortality tables as shall be adopted by the retirement board and regular interest.

"Former retirement system."

(22) "Former retirement system" shall mean the retorement system established under sections 1113 to 1132 inclusive, of the Revised Codes of Montana, 1935."

Approved: March 1, 1967.

HeinOnline -- 1967 vol. I 709 1967

CHAPTER 239

An Act to Protect the Public Health and to Conserve and Protect the Water Resources of the State, to Provide for the Classification of All Public and Privately Owned Water Supply Systems and All Public and Privately Owned Waste Water Treatment Plants, to Require the Examination and Certification of the Competency of Operators, to Supervise the Operation of Water Supply Systems and Waste Water Plants, to Prescribe the Powers and Duties of the State Board of Health, to Provide for the Promulgation of Rules and Regulations, to Provide a Board of Certification, and to Prescribe Penalties for the Violation of This Act.

Be it enacted by the Legislative Assembly of the State of Montana:

Certification of operators of water supply systems and waste water treatment plants.

Section 1. It is hereby found and declared that the health and welfare of Montana citizens are jeopardized by persons not properly qualified to operate the water supply systems and that Montana's waters are endangered by persons not properly qualified to operate the waste water treatment plants. It is declared the public policy of this state to control by certifying those persons working in these occupations in order to protect the public health and safety.

Section 2. **Definitions.** As used in this act, unless the context clearly indicates otherwise:

"Board."

(1) "Board" means the board of certification for water and waste water operators.

"Operator."

(2) "Operator" means the person in direct responsible charge of the operation of a water treatment plant, water distribution system or waste water treatment plant. Operators of plants or systems serving less than ten (10) families are excluded from this act.

"Director."

(3) "Director" means the director of the division of environmental sanitation of the Montana state board of health.

"Waste water treatment plant."

(4) "Waste water treatment plant" means facilities designed to remove solids, bacteria or other harmful constituents of sewage, industrial wastes or other wastes and which discharges an effluent directly into Montana's waters at any time during the year and which serves ten (10) or more families or serves an industry employing ten (10) or more persons.

HeinOnline -- 1967 vol. I 710 1967

"Water supply system."

(5) "Water supply system" means the system of pipes, structures and facilities through which the water is obtained, treated, sold, distributed or otherwise offered to the public for household use or any use by humans and shall serve ten (10) or more families or shall serve an industry employing ten (10) or more persons.

"Water treatment plant."

(6) "Water treatment plant" means that portion of the water supply system which in some way alters either the physical, chemical or bacteriological quality of the water rendering it safe and palatable for human use.

"Water distribution system."

(7) "Water distribution system" means that portion of the water supply system in which water is conveyed from the water treatment plant or other supply source to the premises of the consumer and which serves ten (10) or more families or supplies an industry employing ten (10) or more persons.

"Certificate."

(8) "Certificate" means a certificate of competency issued by the director stating that the operator holding the certificate has met the requirements for the specified operator classification of the certification program.

"Montana's waters."

(9) "Montana's waters" means all streams and lakes, including all rivers and lakes bordering on the state, wells, springs, irrigation systems, marshes, watercourses, waterways, drainage systems and other bodies of water, surface and underground, natural or artificial, publicly or privately owned.

Board of certification—members.

Section 3. (1) The governor of the state of Montana shall appoint a board of certification to advise and assist the director in the administration of the certification program. The board shall be composed of seven (7) persons as follows:

(a) Two (2) members who are currently employed water supply system or water treatment plant operators holding valid certificates or receiving certificates within one (1) year from the date of initiation of this program. One (1) of these members is required to hold, or receive within one (1) year from the date of initiation of this program, a certificate by examination of the highest class issued by the board. There is no restriction on the classification of the certificate held by the other operator.

(b) Two (2) members who are currently employed waste water treatment plant operators holding valid cer-

HeinOnline -- 1967 vol. I 711 1967

tificates or receiving certificates within one (1) year from the date of initiation of this program. One (1) of these members is required to hold, or receive within one (1) year from the date of initiation of this program, a certificate by examination of the highest class issued by the board. There is no restriction on the classification of the certificate held by the other operator.

(c) One (1) member presently serving on the faculty of a university or college whose major field is related to water supply systems, waste water treatment, chemical or civil engineering, chemistry or bacteriology.

(d) One (1) member who is a representative of a municipality required to employ a certified operator and who holds a position of either city manager, city engineer, director of public works, works manager, or their equivalent.

(e) The director of the division of environmental sanitation or a qualified member of his staff to be appointed by the director.

(2) Each member of the board, with the exception of the ex officio voting member from the state board of health, shall be appointed for a six (6) year term except in the case of the initial appointments the municipal representatives shall be appointed for one (1) year, the faculty members shall be appointed for two (2) years, and the water and waste water operators shall be appointed for three (3), four (4), five (5) and six (6) years setting forth in the appointment the term in the beginning. Vacancies shall be filled by appointment by the governor for the unexpired term. The director shall be the only permanent member of the board.

Officers.

(3) Members of the first board shall at the call of the director, organize and elect from their number a chairman. Thereafter, annually when new members are appointed to the board a chairman shall be elected at the next board meeting. The director shall be the secretary to the board.

Examinations.

(4) The board shall hold at least one (1) examination each year for the purpose of examining candidates for certification at a time and place designated by the board. Those applicants whose competency is acceptable to the board shall be recommended to the director for certifica-

HeinOnline -- 1967 vol. I 712 1967

tion. Additional meetings may be called by the chairman, secretary, or upon written request of four (4) members of the board as may be reasonably necessary to carry out the provisions of this act. Four (4) members shall constitute a quorum. The members of the board shall receive a fee of twenty dollars ($20) per day while in session, plus the cost of actual and necessary expenses, including travel while discharging their official duties.

Classification of systems.

Section 4. The director shall classify all water treatment plants, water distribution systems and waste water treatment plants with due regard to the size, type, physical conditions affecting such water treatment plants and distribution systems, character of waste waters to be treated and other physical conditions affecting such waste treatment plants and according to the skill, knowledge, and experience that the operator in responsible charge must have, to successfully supervise the operation of such water treatment plants and water distribution systems and such waste water treatment facilities so as to protect the public health and prevent unlawful pollution.

Certificate of qualifications.

Section 5. The director shall certify persons as to their qualifications to supervise successfully the operation of such water and waste water treatment plants and the water distribution systems after considering the recommendations of the board.

When systems to be supervised by certified operator.

Section 6. One (1) year following the effective date of this act, all water and waste water treatment plants and water distribution systems, whether publicly or privately owned, must be under the supervision of an operator whose competency is certified to by the director in a grade corresponding to the classification of that portion of the water or waste water supply system to be supervised; provided, however, that nothing herein contained shall prevent a governmental agency, corporation, or individual from continuing to employ in such capacity any person now in responsible charge of the operation of such works. Certificates of proper classification may be issued without examination to the person or persons certified by the governing board or owner to have been in responsible charge of the water and waste water plants and water distribution systems on the effective date of the act. A certificate so issued will be valid only in that plant. The board may consider for recommendation for

HeinOnline -- 1967 vol. I 713 1967

certification the holder of a certificate issued by a governmental agency or equivalent certification board of another state, upon presentation to the board of satisfactory evidence that the applicant is in responsible charge of works located in Montana requiring a certified operator and that he has successfully passed an examination at least equivalent to that required under section 3(4) and section 5 of this act.

Issuance of certificates.

Section 7. The director shall issue certificates attesting to the competency of operators. The certificates shall include the classification of the works which the operator is qualified to supervise. The certificate shall be prominently displayed in the office of the operator.

(1) Certificates shall continue in effect unless revoked by the director, but remain the property of the board and the certificate shall so state. Each certificate shall be renewed annually by payment of proper fee.

(2) The director may revoke the certificate of an operator following a hearing before the director or his designated representative, when it is found that the operator has practiced fraud or deception; that reasonable care, judgment, or the application of his knowledge or ability was not used in the performance of his duties; or that the operator is incompetent or unable to properly perform his duties. Any person having his certificate revoked by the director may appeal to the certification board for a rehearing within ten (10) days of notification by the director, after which time the revocation proceedings are no longer applicable and revocation of the certificate becomes final.

(3) Operators who terminate employment may retain their certificate for two (2) years, providing that all other requirements are met. After two (2) years, a certificate will automatically be invalidated. Operators whose certificates are invalidated under the provisions of this act may be issued new certificates of like classification provided appropriate proof of competency is presented to the board. Successful completion of an examination may be required at the discretion of the board.

Application for certficate, fee.

Section 8. Any person desiring to engage in the operation of a water treatment plant, water distribution system or waste water treatment plant shall first file an

HeinOnline -- 1967 vol. I 714 1967

application with the board for a proper certificate. The board shall charge a fee of the same amount as the license cost set forth in Section 9, for the filing of each application by any person and shall not act upon any application until such fee has been paid. All filing and certification fees collected hereunder shall be deposited with the state treasurer in the "Water and Waste Water Operators Certification Examining Board Account" in the earmarked revenue fund and shall be used to pay the expenses of the board as set forth in this act and for no other purpose. In the granting of such certificates, the board shall have due regard for the interest of the state of Montana to protect the drinking water supplies and the quality of its waters.

Terms for certificates—renewal.

Section 9. The terms for certificates issued under the provisions of this act shall be from the first day of July of each year through the following 30th day of June. After the payment of the initial fee as provided for in the immediate preceding section, each certificate holder hereunder shall pay on or before the first day of each certificate year a renewal fee as set forth in the schedule below:

Class I—twenty dollars ($20)

Class II—fifteen dollars ($15)

Class III—ten dollars ($10)

Class IV—five dollars ($5)

Class V—three dollars ($3)

Any certificate issued after July 1st of the calendar year shall expire the following June 30th. If a certificate holder does not apply for a renewal of his certificate before the first day of any certificate year and remit to the board the necessary renewal fee, he shall have his certificate suspended by the board. If said certificate remains so suspended for a period of more than thirty (30) days after the first of any certificate year, it shall be revoked by the board; provided, however, that the board prior to such revocation shall notify the certificate holder by certified mail to the address on the issued certificate of its intention to revoke, at least ten (10) days prior to the time set for action to be taken by the board on such certificate. A certificate once revoked may not be reinstated unless it shall appear that an injustice has occurred through error or omission or other fact or circumstances indicating to the board that the certificate

HeinOnline -- 1967 vol. I 715 1967

holder was not guilty of negligence or laches. If a person whose certificate has been revoked through his own fault desires to continue as a water or waste water plant operator, he must make application to the board as provided for in section 8 of this act. Successful completion of an examination may be required at the discretion of the board. Notice of suspension shall be given to certificate holder when such suspension occurs and to the proper official or owner of such treatment works or distribution system.

Rules and regulations.

Section 10. The board shall make such rules and regulations as are reasonably necessary to carry out the intent of this act. The rules and regulations shall include, but are not limited to, provisions establishing the basis for classification of treatment plants in accordance with section 4 of this act, provisions establishing qualifications of applicants, procedures for examination of candidates and such other provisions as are necessary for the administration of this act.

Violation within one year of effective date of act.

Section 11. On or after one (1) year following the effective date of this act, it shall be unlawful for any person, firm or corporation, both municipal and private, operating a waste water treatment plant, water treatment plant or water distribution system to operate same unless the competency of the operator is duly certified to by the director under the provisions of this act. Furthermore, it shall be unlawful for any person to perform the duties of an operator as defined herein without being duly certified under the provisions of this act.

Violation.

Section 12. Any person, firm, or corporation, both municipal and private, violating any provisions of this act or the rules and regulations adopted hereunder is guilty of a misdemeanor. Each day of operation in violation of this act or any rules and regulations adopted hereunder shall constitute a separate offense.

Severability clause.

Section 13. It is the intent of the legislative assembly that if a part of this act is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this act is infalid in one or more of its applications, the part remains in effect in all valid applications that are separable from the invalid applications.

Approved: March 1, 1967.

HeinOnline -- 1967 vol. I 716 1967

CHAPTER 240

An Act to Amend Section 75-2704, Revised Codes of Montana, 1947, as Last Amended by Chapter 216, Laws of Montana, 1953, Relating to the Number of Years Membership Service Required to Be Eligible for Vested Rights.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 75-2704, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows: Amending clause.

"75-2704. **Membership.** (1) The membership of the retirement system shall consist of the following: Membership of retirement system.

(a) All persons who were teachers in the public elementary and high schools of the state during the school year nineteen hundred and thirty-six to nineteen hundred and thirty-seven, and who continue to be teachers shall become members as of the date of establishment except that any such teacher may notify the board on or before the thirtieth day of November, nineteen hundred and thirty-seven, in such form as the board may prescribe, that he does not desire to become a member, and in such case the board shall exclude him from the membership.

(b) All persons who were teachers in the university of Montana during the school year nineteen hundred and thirty-eight to nineteen hundred and thirty-nine, and who continue to be teachers shall become members as of the first day of September, nineteen hundred and thirty-nine, except that any such teacher may notify the board on or before the thirtieth day of November, nineteen hundred and thirty-nine, in such form as the board may prescribe, that he does not desire to become a member, and in such case the board shall exclude him from the membership.

(c) All persons who become teachers or re-enter the teaching service in the public elementary or high schools on or after the first day of September, nineteen hundred and thirty-seven, and all persons who become teachers or re-enter the teaching service in the university of Montana on or after the first day of September, nineteen hundred and thirty-nine, shall become members of the retirement system by virtue of their appointment as teachers.

HeinOnline -- 1967 vol. II 717 1967

(d) A teacher in the public elementary or high schools who shall elect not to become a member as provided in subdivision (a) of this subsection, may thereafter apply for and be admitted to membership.

(e) A teacher in the university of Montana who shall elect not to become a member as provided in subdivision (b) of this subsection may thereafter apply for and be admitted to membership.

Denial of membership.

(2) The retirement board may in its discretion deny the right to become members to any class of teachers whose compensation is only partly paid by the employer, or who are serving on a temporary or any other than a per annum basis, and it may also in its discretion make optional with members in any such class their individual entrance into membership.

Termination of membership.

(3) The membership of any person in the retirement system shall cease:

(a) If he is a member of any other retirement or pension system supported wholly or in part by funds of the United States government, or any agency thereof, or political subdivision thereof and he is receiving credit in such other system for service, it being the purpose of this subsection to prevent a person from receiving credit for the same service in two retirement systems supported wholly or in part by public funds, and no person shall receive both such credits under any circumstances. Any member of the retirement system who, because of his employment, shall be required to become a member of any such other system, shall be considered, solely for the purpose of this act, as permanently separated from state service.

For the purpose of this subsection, teachers who merely are receiving pensions or retirement allowances, or other payments, from any source whatever, on account of service rendered to some other agency, shall not be considered, because of such receipt, members of any other retirement or pension system.

(b) If he withdraws his accumulated contributions or retires on a pension or dies, but not otherwise, except that the membership of a teacher who has not withdrawn his contributions and who has not had sufficient service to be eligible for disability retirement shall not

HeinOnline -- 1967 vol. II 718 1967

be canceled, provided the member shall prove to the satisfaction of the retirement board that absence from service was caused by personal illness constituting disability, or service in the armed forces of the United States which includes all members of the army, the navy, the marine corps, and the coast guard, or service in the American Red Cross and merchant marine during time of war, and provided any member with *five (5)* or more years of service, whose service is discontinued otherwise than by death or retirement, shall have the right to elect within one (1) year after such termination of service, and without right of revocation, whether to allow his accumulated contributions to remain in the retirement fund. Upon the qualification for retirement by reason of age or disability of a member who has elected to allow his accumulated contributions to remain in the retirement fund, he shall receive a retirement allowance in accordance with the provisions of the Teachers' Retirement Act.

Vested right—5 years service.

(4) It shall be the duty of each board of school trustees and of the chief executive of each institution, station or division of the university of Montana employing teachers subject to the provisions of this act to submit to the retirement board a statement showing the name, title, compensation, duties, date of birth, and length of service of teach teacher employed in such schools and such other information regarding such teachers as the retirement board may require."

Statement of service.

Approved: March 1, 1967.

CHAPTER 241

An Act to Amend Section 75-2707, Revised Codes of Montana, 1947, as Amended by Chapter 216, Laws of 1963 and Last Amended by Chapter 33 and Chapter 259, Laws of 1965, Relating to Benefits and the Number of Years of Service Required for Retirement and Disability Benefits, Relating to Payments to Beneficiaries of Deceased Members and Change the Age for Minimum Retirement Benefits.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 75-2707, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Amending clause.

HeinOnline -- 1967 vol. II 719 1967

Superannuation benefit.

"75-2707. **Benefits.** (1) **Superannuation retirement benefit.** (a) Any member who has completed *five* years of creditable service, the last *five* years of which shall have been in this state, and who has attained the age of sixty may retire from service, if he files with the retirement board his written application setting forth the fact of his retirement.

Five years service at age sixty.

Member who has attained seventy years.

(b) That from and after the passage and approval of this act, any member in service who has attained the age of seventy years, during any school year shall be retired by said retirement board on the first day of September following his or her seventieth birthday, provided, however, that this provision shall not apply to teachers in the Montana university system who may be employed beyond the age of seventy upon the recommendation of the president of the unit concerned to the board of regents. Provided further that such teachers (1) shall not be given credit toward retirement pay for teaching service rendered after the end of the school year in which the age of seventy is attained, (2) shall not contribute to the retirement system after the end of said school year, and (3) shall not have the compensation received after the end of said school year used in computing final average salary. Initial employment of teachers in the Montana university system beyond the age of seventy may be made upon the recommendation of the president of the unit concerned to the board of regents but such employees are denied membership in the teachers' retirement system.

Provided, further, that any retired teacher may be employed as a teacher in Montana and may earn an amount not to exceed one-fourth of his final average compensation without loss of retirement benefits.

Allowance on superannuation benefit.

(2) **Allowance on superannuation retirement.** Upon superannuation retirement a member shall receive a superannuation retirement allowance which shall consist of:

(a) An annuity which shall be actuarial equivalent of his accumulated contributions at the time of his retirement, and

(b) A pension of one-quarter of his average final compensation provided his creditable service is at least

HeinOnline -- 1967 vol. II 720 1967

thirty-five years, otherwise, a pension of one one-hundred fortieth (1/140) of his average final compensation multiplied by the number of years of his creditable service, and

(c) If he has a prior service certificate in full force and effect, an additional pension which shall be equal to one one-hundred fortieth (1/140) of his average final compensation multiplied by the number of years of service certified to him on his prior service certificate.

(d) The minimum annual retirement allowance for a member who has completed thirty years service and who retired after September 1, 1937, and before June 30, 1949, shall be twelve hundred dollars ($1,200.00), and the minimum retirement allowance for a member who retired after September 1, 1937, and before June 30, 1949, but whose service is less than thirty years shall receive a minimum retirement allowance based on the proportionate amount of twelve hundred dollars ($1,200.00) that his service bears to thirty years of service.

(e) The minimum annual retirement allowance for a member who has completed thirty-five years of service and who retires after June 30, 1949, shall be twelve hundred dollars ($1,200.00).

(f) In the event a member retired on a superannuation allowance has not received more than three retirement payments prior to death, the beneficiary of the member shall receive a refund of the difference between the total paid and the amount of the accumulated contributions.

Disability retirement benefit.

(3) **Disability retirement benefit.** Upon the application of a member in service or of his employer, any member who *qualifies by reason of service for a retirement benefit* may be retired by the retirement board not less than thirty and not more than ninety days next following the date of filing such application on a disability retirement allowance, provided that the medical board after a medical examination of such member shall certify that such member is mentally or physically incapacitated for the further performance of duty, that such incapacity is likely to be permanent and that such member should be retired.

If the applicant for disability retirement was prevented because of the disability from making application at the

HeinOnline -- 1967 vol. II 721 1967

time of the commencement of disability, the retirement board shall grant the disability retirement upon the proper application for disability retirement allowance and make payments retroactive to the thirtieth day after the date of commencement of disability.

Allowance on disability retirement.

(4) **Allowance on disability retirement.** Upon retirement for disability a member shall receive a superannuation allowance if he is eligible for a superannuation allowance; otherwise he shall receive a disability retirement allowance which shall consist of:

(a) An annuity which shall be the actuarial equivalent of his accumulated contributions at the time of retirement, and

(b) A pension which, together with his annuity, shall provide a total retirement allowance equal to ninety per centum (90%) of one-seventieth (1/70) of his average final compensation multiplied by the number of years of his creditable service, if such retirement allowance exceeds one-quarter (¼) of his average final compensation; otherwise, a pension which, together with his annuity, shall provide a total retirement allowance equal to one-quarter (¼) of his average final compensation, provided, however, that no such allowance shall exceed ninety per centum (90%) of one-seventieth (1/70) of his average final compensation multiplied by the number of years which would be creditable to him were his service to continue until the attainment of the minimum age for superannuation retirement.

(c) In the event payments made to a person retired because of disability do not equal the amount of his accumulated contributions prior to his death the difference between the amount paid and the total of the accumulated savings account of said member shall be paid to the beneficiary.

Re-examination of disability beneficiary.

(5) **Re-examination of beneficiaries retired on account of disability.** Once each year during the first five (5) years following the retirement of a member on disability retirement allowance, and once in every three year period thereafter the retirement board may, and upon his application shall, require a disability beneficiary who has not yet attained the age of sixty to undergo a medical examination by the medical board or a physician or physi-

HeinOnline -- 1967 vol. II 722 1967

cians designated by the medical board, such examination to be made at the place of residence of said beneficiary or other place mutually agreed upon. Should any disability beneficiary who has not yet attained the age of sixty refuse to submit to at least one medical examination in any year by the mediial board, his allowance may be discontinued until his withdrawal of such refusal, and should his refusal continue for one year, all his rights in and to his pension may be revoked by the retirement board.

Disability beneficiary able to engage in occupation.

(6) Should the medical board report and certify to the retirement board that any disability beneficiary is engaged in or is able to engage in a gainful occupation paying more than the difference between his retirement allowance and his average final compensation and should the retirement board concur in such report, then the amount of his pension shall be reduced to an amount which, together with his annuity and the amount earnable by him, shall equal the amount of his average final compensation. Should his earning capacity be later changed the amount of his pension may be further modified; provided that the new pension shall not exceed the amount of the pension originally granted, nor an amount which when added to the amount earnable by the beneficiary, together with his annuity, equals the amount of his average final compensation. A beneficiary restored to active service at a salary less than the average final compensation upon the basis of which he was retired shall not become a member of the retirement system while receiving a reduced benefit.

Disability beneficiary under age 60 restored to service.

(7) Should a disability beneficiary under age sixty be restored to active service at a compensation not less than his average final compensation his retirement allowance shall cease; he shall again become a member of the retirement system and contribute thereto. Any prior service certificate on the basis of which his service was computed at the time of his retirement shall be restored to full force and effect and in addition upon his subsequent retirement he shall be credited with all his service as a member, and should he be restored to active service on or after the attainment of the age of fifty-five years, his pension upon subsequent retirement shall not exceed the pension that he would have received had he remained in service during the period of his previous

HeinOnline -- 1967 vol. II 723 1967

retirement nor the sum of the pension which he was receiving immediately prior to his last restoration to service and the pension that he would have received on account of his service since his last restoration had he entered service at that time as a new entrant.

Withdrawal from service.

(8) (a) A member who withdraws from service or ceases to be a teacher for any cause other than death or retirement shall be paid only the amount contributed by the member to his annuity savings account after first deducting any unpaid annual membership fees of said member.

(b) Should a member die before retirement the amount of the member's *accumulated* contributions *shall be paid to his estate or such person as he shall have nominated on a form as the board may require which shall be filed with the board prior to the member's death.*

(c) In lieu of benefits provided in (b) above, if the deceased member had qualified by reason of service for a retirement benefit, the beneficiary nominatd by the deceased member may elect to receive a monthly life annuity. Said monthly life annuity to be based on the beneficiary's attained age at the time of the deceased member's death and to be calculated from an amount equal to the required reserve for the deceased member's creditable service, together with the deceased member's accumulated contributions.

(d) If the deceased member had qualified by reason of service for a retirement benefit and was actively engaged as a teacher in the state of Montana within one (1) year prior to his death, the sum of fifty dollars ($50.00) per month shall be paid to each minor child of the deceased member until such child or children reach his or her eighteenth birthday.

Optional benefits.

(9) **Optional benefits.** With the provision that no optional selection shall be effective in case a beneficiary dies within thirty days after retirement, and that such a beneficiary shall be considered as an active member at the time of his death; until the first payment on account of any benefit becomes normally due, any member may elect to receive his benefit in a retirement or disability allowance payable throughout life as hereinabove provided, or he may on retirement elect to receive the actuarial equivalent at that time of his retirement or dis-

HeinOnline -- 1967 vol. II 724 1967

ability allowance in a lesser retirement allowance payable throughout life with the provision that:

Option 1. If he dies before he has received in payment of his annuity the amount of his accumulated contributions as they were at the time of his retirement, the balance shall be paid to his legal representative or to such person as he shall nominate by written designation duly acknowledged and filed with the retirement board; or Option 1.

Option 2. Upon his death, his reduced retirement allowance shall be continued throughout the life of and paid to such person as he shall nominate by written designation duly acknowledged and filed with the retirement board at the time of his retirement; or Option 2.

Option 3. Upon his death, one-half of his reduced retirement allowance shall be continued throughout the life of and paid to such person as he shall nominate by written designation duly acknowledged and filed with the retirement board at the time of his retirement; or Option 3.

Option 4. Some other benefit or benefits shall be paid either to the member or to such person or persons as he shall nominate by written designation duly acknowledged and filed with the retirement board at the time of his retirement, provided such other benefit or benefits, together with the lesser retirement allowance shall be certified by the actuary to be of equivalent actuarial value to his retirement allowance and shall be approved by the retirement board." Option 4.

Approved: March 1, 1967.

CHAPTER 242

An Act to Amend Section 75-2705, Revised Codes of Montana, 1947, Relating to the Number of Years of Out of State Service a Member Is Allowed to Purchase as Montana Service.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 75-2705, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows: Amending clause.

HeinOnline -- 1967 vol. II 725 1967

Membership application and creditable service —rules and regulations.

"75-2705. **Membership application and creditable service.** (1) Under such rules and regulations as the retirement board shall adopt, each teacher upon becoming a member shall file with the retirement board an application showing his date of birth, and such other necessary information as the retirement board may require for the proper operation of the retirement system. If a member was a teacher in the public elementary or the high schools during the school year immediately preceding the establishment of the retirement system, and becomes a member before the first day of September, nineteen hundred and thirty-eight, and if a member was a teacher in the university of Montana during the school year nineteen hundred and thirty-eight to nineteen hundred and thirty-nine, and becomes a member before the first day of September, nineteen hundred and forty, he shall itemize on such application all services as a teacher rendered prior to the date of establishment, including service in a similar capacity in other states rendered by him prior to the first day of September, nineteen hundred and thirty-seven, for which he claims credit.

Prior service credit.

(2) Any member who was a teacher in the university of Montana during the school year nineteen hundred and thirty-eight to nineteen hundred thirty-nine and becomes a member before the first day of September, nineteen hundred and forty, shall be allowed upon application to the retirement board, credit for prior service for either the school year nineteen hundred and thirty-seven to nineteen hundred thirty-eight or the school year nineteen hundred thirty-eight to nineteen hundred thirty-nine, or for both of these years, provided (a) that he was a teacher in the university of Montana during the school year or years for which he makes application for such credit; and (b) that he contributes to the retirement fund an amount equal to the contribution that would have been necessary if he had been a member during the school year or years for which he makes application for such credit. The amount contributed by a member in accordance with this subsection shall be credited to his individual accounts in the annuity savings fund.

Year of service.

(3) The retirement board shall fix and determine by appropriate rules and regulations how much service in any year is the equivalent of a year of service, but in computing such service or in computing average compen-

HeinOnline -- 1967 vol. II 726 1967

sation, it shall credit no period of more than a month's duration, during which a member was absent without pay, nor shall more than one year of service be credited for all service in any school year.

Verification of service.

(4) Subject to the above restrictions and to such other rules and regulations as the retirement board shall adopt, said board shall verify as soon as practicable the statement of service submitted.

Prior service certificate.

(5) Upon verification of the statement of service submitted, the retirement board shall issue to each member who was a teacher in the public elementary or the high schools during the school year immediately preceding the date of establishment of the retirement system and becomes a member before the first day of September, nineteen hundred and thirty-eight, and to each member who was a teacher in the university of Montana during the school year nineteen hundred and thirty-eight to nineteen hundred and thirty-nine and becomes a member before the first day of September, nineteen hundred and forty, a prior service certificate certifying to the aggregate length of prior service as a teacher and to the aggregate length of such service in a similar capacity outside of the state for which the member is entitled to credit. In such prior service certificate, the member shall be credited up to the nearest number of years and months with all service as a teacher prior to September 1, 1937, and with all service not exceeding ten years in a similar capacity in other states, and with all services for which credit is allowable as provided in subsections (2), (8) and (9) of this section.

Certificate final—when.

(6) So long as membership continues, a prior service certificate shall be final and conclusive for retirement purposes as to such service unless thereafter modified by the retirement board upon application made by the member within one year after the date of issuance or modification of a prior service certificate or upon discovery by the retirement board of an error or fraud.

Creditable service.

(7) At retirement the creditable service of a member on which his retirement allowance shall be based, shall consist of the membership service rendered by him as a member and also if he has a prior service certificate, which is in full force and effect, the service certified on his prior service certificate.

HeinOnline -- 1967 vol. II 727 1967

Membership service.

(8) Any teacher who was employed during the school year nineteen hundred forty-seven and nineteen hundred forty-eight or who was not continuously absent without pay for a period of more than three years between the years nineteen thirty-seven and nineteen forty-seven may become a member of the retirement system and shall be allowed credit for prior service provided (a) that he made application to the retirement board prior to the thirtieth day of June 1950; and (b) that he contributes to the retirement fund an amount equal to the contribution that would have been necessary if he had been a member during the school year or years for which he makes application for such credit, or if the full amount is not paid then credit shall be given for the years covered by the amount paid. The amount contributed by a member in accordance with this subsection shall be credited to his individual account in the annuity savings fund.

Contributions.

(9) Any teacher who has become employed as a teacher in Montana subsequent to September first nineteen hundred and thirty-seven may receive credit for service for out-of-state teaching employment provided (a) that he contributes to the retirement fund five per cent (5%) of the salary for each year claimed based on the first year's salary earned in Montana; and (b) that the maximum number of such years shall not exceed *five (5)* and that a year out-of-state employment shall be equivalent to one year membership service in Montana, and (c) that payment of such contribution shall be made in a lump sum or in installments as agreed between such teacher and the retirement board.

Application for prior service credit.

(10) Any teacher who has been employed for at least ten (10) years and who has been a contributing member for at least five (5) consecutive years of the ten (10) and who has not at the time of retirement received credit for all Montana prior service rendered before September 1, 1937, may apply for and receive credit for such prior service if proper certification of such service is furnished."

Approved: March 1, 1967.

HeinOnline -- 1967 vol. II 728 1967

CHAPTER 243

An Act to Amend Section 75-3414, R.C.M. 1947, Relating to Budgets and Levies for School Transportation; Providing That a Reserve Fund May Be Included in the School Transportation Budget; and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 75-3414, R.C.M. 1947, is amended to read as follows: Amending clause.

"75-3414. **Budgets and levies for transportation.** (a) The board of trustees of any school district maintaining an elementary school, or schools, or providing for the transportation of its pupils to attend an elementary school or schools, outside the district, or furnishing services in lieu thereof, shall have the authority and it shall be its duty to provide and adopt a complete transportation budget therefor, which budget shall show in detail and by items the estimated expenditures and receipts for the school year for which it is provided. The estimated expenditures may include a contingency item for the purpose of enabling the trustees of the district to fulfill any obligation to provide transportation in accordance with the provisions of the transportation act for any pupils not residing in the district at the time of adoption of the transportation budget who subsequently become residents of the district during the budget year. The amount of such contingency item shall not exceed ten per cent (10%) of the total amount of the regularly budgeted expenditures of the district arrived at in accordance with the schedule established in section 75-3407, provided, however, that when ten per cent (10%) of the budgeted schedule amount will provide less than one hundred dollars ($100), the ten per cent (10%) limitation shall not apply and the district may budget for a contingency item of up to but not exceeding one hundred dollars ($100). The form of such transportation budget shall be prescribed by the state superintendent of public instruction. The total amount of the estimated expenditures, as shown by such transportation budget, shall be shown and included in the elementary school budget form and the estimated receipts from reimbursements, as shown in such transportation budget, shall be shown and included in the elementary budget form as provided. A copy of the Budgets and levies for transportation.

HeinOnline -- 1967 vol. II 729 1967

elementary transportation budget adopted, together with a duly signed copy of each and every contract form pertaining thereto shall be transmitted by the county superintendent of schools to the state superintendent of public instruction at the same time copies of the elementary school budgets are required to be so transmitted.

Payment of budget balance—tax.

(1) When the total elementary transportation budget has been presented in detail on approved forms including duly signed contract forms for the contracting, operation, maintenance, rent or purchase of school buses, individual transportation, and increased transportation due to islation, and after deducting all estimated receipts including reimbursements, the balance of the budget shall be paid out of receipts from a tax levied upon all the taxable property of the school district.

Transportation balance.

(2) The board of trustees of every school district maintaining a high school, or furnishing transportation for its pupils to another high school, or services in lieu thereof, and the board of trustees of every county high school, shall have the authority and it shall be its duty to provide a complete transportation budget therefor, including duly signed contract forms for the contracting, operation, maintenance, rent or purchase of school buses, individual transportation, and increased transportation due to isolation, or any service in lieu of transportation. The budget shall show in detail and by items the estimated expenditures and receipts, including the state transportation reimbursements, for the school year for which it is provided. The estimated expenditures may include a contingency item for the purpose of enabling the trustees of the high school to fulfill any obligation to provide transportation in accordance with the provisions of the transportation act for any high school pupils not residing in the high school territory under the jurisdiction of the trustees at the time of adoption of the transportation budget who subsequently become residents of said territory during the budget years. The amount of such contingency item shall not exceed ten per cent (10%) of the total amount of the regularly budget*ed* expenditures of the high school arrived at in accordance with the schedule established in section 75-3407, provided, however, that when ten per cent (10%) of the budgeted schedule amount will provide less than one hundred dollars ($100), the ten per cent (10%) limitation shall not apply and

HeinOnline -- 1967 vol. II 730 1967

the high school may budget for a contingency item of up to but not exceeding one hundred dollars ($100). The form of such transportation budget shall be prescribed by the state superintendent of public instruction. A copy of the high school transportation budget adopted for each high school, together with a duly signed copy of each and every contract form pertaining thereto, shall be transmitted by the county superintendent of schools to the state superintendent of public instruction at the same time copies of the final high school budgets are required to be so transmitted. For each high school transportation budget arrived at according to the schedule set up in section 75-3407, the amount remaining after deducting all estimated local receipts, and state transportation reimbursements from the total amount required for the transportation budget according to the schedule, shall be the amount required to be raised by tax levy for such high school transportation budget, and the total of all such amounts required to be raised by tax levy for all such high school transportation budgets shall be the total amount required to be raised by county-wide transportation levy, and the county commissioners, except as hereinafter provided, shall make a county-wide levy of such number of mills as will raise such total amount; provided that this amount shall not be more than two-thirds (2/3) of the total of each high school transportation budget according to the schedule as set forth in section 75-3407. The amount remaining in each high school transportation budget over and above the amount arrived at according to the schedules in section 75-3407, as amended, shall be the amount required to be raised by tax levy for each such high school transportation budget and all such amounts required to be raised by tax levy for each such high school transportation budget shall be the total amount required to be raised by high school transportation levy on the high school district if there be one; and in case of a county high school by a county levy, excluding those districts maintaining high school, otherwise on the common school district, of which each particular high school is a part, and the county commissioners shall make a levy of such number of mills as will raise such needed amount; provided that the amount budgeted for high school transportation in any high school budget shall not be deemed or considered as a part of or included within the maximums for high school budgets as fixed

HeinOnline -- 1967 vol. II 731 1967

and determined by chapter 199, Laws of 1949, as amended, and the county-wide high school transportation levy herein provided for shall not be deemed or construed as a part of the county-wide high school levy authorized by section 75-4516.1, unless the trustees making such budget so desire and the board of county commissioners find that such high school transportation levy is not required to raise the amount necessary for such budget for all purposes including transportation or services in lieu thereof. Cash balances on hand at the end of the fiscal year shall be used to reduce the district levy for the ensuing year, provided that if there is a cash balance on hand at the end of a fiscal year and no district levy is required for the ensuing fiscal year under the foregoing provisions, then said cash balance shall be used to reduce the amount to be raised by county-wide levy as herein provided.

Reserve fund for transportation service.

(3) The board of trustees of a school district or county high school may include, in each transportation budget, a reserve fund for maintaining transportation service from July first to November thirtieth of the next succeeding school year. The reserve fund shall not exceed twenty per cent (20%) of the amount appropriated in the final and approved transportation budget for the then current school year."

Effective immediately.

Section 2. This act is effective immediately upon passage and approval.

Approved: March 1, 1967.

CHAPTER 244

An Act Amending Sections 84-1302 and 84-1304, R.C.M. 1947, Relating to Coal Mines License Taxes, to Limit the Application of Said Tax to Strip Coal Mines.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 84-1302, R.C.M. 1947, is amended to read as follows:

Strip coal mines license tax—amount—exceptions.

"84-1302. *Strip* **coal mines license tax—amount—exceptions.** Every person engaged in or carrying on the business of *strip* coal mining, or engaged in the business of work or operating any *strip coal* mine or *strip coal*

HeinOnline -- 1967 vol. II 732 1967

mining property, in the state of Montana, from which marketable or merchantable coal of any kind is extracted or produced *by means of strip mining,* whether such person shall carry on such business or engage in such work or operations as owner, lessee, trustee, possessor, receiver, or in any other capacity, must for the year 1921, and each year thereafter, when engaged in or carrying on such business, work or operations, pay to the state treasurer, for the exclusive use and benefit of the state of Montana, a license tax for engaging in and carrying on such business, work and operations, in an amount equal to five cents per ton for each and every ton in excess of fifty thousand tons of marketable or merchanable coal extracted or produced *by means of strip mining* by such person in the state of Montana and shipped by such person during such year, or used by such person for any purpose except in connection with the operating of the *strip coal* mine or mining property from which the same was extracted or produced, *by means of strip mining* or delivered by such person to any other person for shipment, sale or use by such other person; provided, however, that nothing in this act shall be construed as requiring laborers or employees, hired or employed, by any person to mine coal, or to work in or about, or in connection with any *strip* coal mine to pay such license taxes, nor shall any work required to be done in prospecting for, or in developing, or in opening up any *strip* coal mine or *strip coal* mining property, be deemed to be the carrying on of a *strip* coal mining business, or the engaging in the business of working or operating of a *strip* coal mine; provided, further, that if during any such work of developing or opening up any *strip* coal mine or *strip* coal mining property, any marketable or merchantable coal shall be extracted or produced *by means of strip mining* and sold, then the same shall be deemed the carrying on of a *strip* coal mining business and the engaging in the business of working and operating a *strip* coal mine."

Amending clause.

Section 2. Section 84-1304, R.C.M. 1947, is amended to read as follows:

Strip coal mine operators to file statements.

"84-1304. *Strip coal m*ine operators to file statements. Each and every person engaged in or carrying on the business of *strip* coal mining, or engaged in the business of working or operating any *strip coal* mine or *strip coal* mining property in the state of Montana, from which coal

HeinOnline -- 1967 vol. II 733 1967

of any kind is *extracted or produced by means of strip mining* at the date when this act becomes effective, must, not later than the thirtieth day of April, 1921, and every person who shall, after the date this act becomes effective, engage in the business of *strip* coal mining or engage in working or operating any *strip coal* mine or *strip coal* mining property in the state of Montana, from which coal of any kind is *extracted or produced by means of strip mining* must, immediately upon engaging in such business, work or operations, file with the state board of equalization, a certificate and statement, on forms prescribed by such state board of equalization, which shall contain the name under which such person is engaging in and carrying on such business, work and operations, within this state, giving the place or places of business or location of the *strip coal* mine or *strip coal* mining property; the name and address of the managing agent in this state, if an association, joint-stock company, or corporation, or if a firm or partnership, the names and addresses of the persons composing the same; if an association or corporation, under the laws of what state organized, its principal place of business and the names and addresses of its principal officers; and such other information as the board may deem necessary."

Approved: March 1, 1967.

CHAPTER 245

An Act to Provide for the Reclamation of Lands on Which Strip Mining of Coal Has Been Conducted; to Authorize the Montana Bureau of Mines and Geology to Enter Into Contracts for the Reclamation of Lands on Which Strip Coal Mining Has Been Conducted; Authorizing a Credit on Coal Mines License Tax for One-Half (½) of the Amounts Spent on Land Reclamation, and Amending Section 84-1303, R.C.M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Policy to encourage reclamation of lands for strip mining of coal.

Section 1. It is hereby declared to be the public policy of the state of Montana:

The vast deposits of bituminous, subbituminous and lignite coal underlying the state of Montana are one of its most valuable natural resources and greatest assets. The development of these coal deposits will contribute

HeinOnline -- 1967 vol. II 734 1967

greatly to the economic welfare and prosperity of the people of this state, in that such development will attract new industry to this state and assist in the expansion of existing industry. It is the policy of this state that the development of these coal deposits be encouraged, and that such development be brought about at the earliest possible date and in a manner most beneficial to the people of this state.

Many of these coal deposits are susceptible to development by strip mining methods, and, in fact, due to other factors certain of these deposits can be developed economically only by strip mining methods. Any undesirable results from strip mining can be a a great extent prevented or avoided by a proper program of reclamation in those areas where strip mining has been conducted. In order to reduce any undesirable effects of the strip mining of coal and in order to minimize any pollution of the soil and streams of this state by strip mining of coal, and to return to useful production lands which have to be strip mined, and to preserve and enhance the natural beauty of this state, it is the policy of this state to provide for and encourage the reclamation of lands on which the strip mining of coal has been conducted.

State authorized to contract for reclamation of lands.

Section 2. The Montana bureau of mines and geology is hereby authorized and directed to enter into contracts in the name of the state of Montana with strip coal mine operators which will provide for the reclamation of lands on which the strip mining of coal has been conducted by such operators. The Montana bureau of mines and geology is authorized to sue and be sued in the name of the state of Montana to enforce the provisions of any strip mined land reclamation contract, and the bureau of mines and geology shall bring such court actions and take such other steps and actions as may be necessary to enforce the provisions of such contracts.

State agencies to cooperate.

Section 3. All agencies of the state of Montana concerned with reclamation, soil or water conservation, recreation, fish, game, and wildlife, state parks, state forests, and state lands, shall cooperate with and assist the Montana bureau of mines and geology in carrying out and enforcing contracts for the reclamation of lands on which the strip mining of coal has been conducted.

Reserve credit toward license tax.

Section 4. Any strip coal mine operator who shall enter into a contract with the Montana bureau of mines

HeinOnline -- 1967 vol. II 735 1967

and geology providing for the reclamation of lands on which the strip mining of coal has been conducted, shall annually receive credit toward the payment of the coal mines license tax provided for in chapter 13 of title 84, R.C.M. 1947, in an amount equal to one-half (½) of the reasonable value of the reclamation work performed on such lands under such contracts during the preceding year.

Inspection of strip mining operations.

The Montana bureau of mines and geology shall annually inspect each strip mining operation for coal in this state, and shall, if the operator of such mine has entered into a contract for the reclamation of strip mined lands, determine the reasonable value of all reclamation work performed by such mine operator during the preceding year. The bureau of mines and geology shall promptly after each annual inspection, report to the state board of equalization, the state treasurer, and the operator the reasonable value of reclamation work performed on strip mined lands during the immediately preceding year by each strip mine operator, and one-half (½) of the amount so reported shall be deducted from coal mines license tax due from such strip coal mine operator pursuant to the provisions of chapter 13 of title 84, R.C.M. 1947.

Amending clause.

Section 5. Section 84-1303, R.C.M. 1947, is amended to read as follows:

Payment of annual license tax.

"84-1303. **Payment of annual license tax.** Such annual license tax shall be paid in quarterly installments for the quarters ending, respectively, March 31st, June 30th, September 30th, and December 31st in each year, beginning with the quarter ending March 31, 1921, and the amount of the license tax due for each such quarter shall be paid to the state treasurer within thirty days after the end of each such quarter *provided that one-half (½) of the amounts reported to the state treasurer by the bureau of mines and geology as being the reasonable value of reclamation work performed by a licensee on lands on which strip mining has been conducted shall be credited to such licensee on the first quarterly payment of the license tax due after such report is received, and on such subsequent quarterly payments until the licensee has received credit for the full amount thus reported.*"

Approved: March 1, 1967.

HeinOnline -- 1967 vol. II 736 1967

CHAPTER 246

An Act Expanding Duties and Services of the Division of Mental Hygiene of the State Board of Public Institutions by Establishing and Conducting Mental Health Clinics and Community Comprehensive Mental Health Centers; Creating Regional Mental Health Boards; Providing for the Organization Thereof; Defining the Duties of Regional Mental Health Boards; Authorizing the Participation of the Division of Mental Hygiene of the State Board of Public Institutions in Contractual or Cooperative Arrangements With Regional Mental Health Boards and Others; Providing the Division of Mental Hygiene and the Regional Mental Health Boards the Authority to Receive Gifts, Grants, Donations, and Any Other Form of Support and Enabling Counties Participating in Regional Mental Health Programs to Use Tax Monies to Finance the Programs of Prevention, Diagnosis and Treatment of Mental Illness; Giving the Division of Mental Hygiene of the State Board of Public Institutions General Supervisory Power and Control Over All Public Mental Health Programs in the State of Montana; Amending Section 80-2403 of the Revised Codes of Montana, 1947, Enacted As Section 69, Chapter 199, Laws of 1965; and Repealing All Other Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. **Definition of terms.** As used in this act, unless the context clearly indicates otherwise: Definitions.

(1) Public mental health facility is any public service or group of services operating under the guidelines of the division of mental hygiene of the department of institutions offering mental health care on an inpatient or outpatient basis to the mentally ill. Public mental health facility.

(2) Community comprehensive mental health center is a facility not necessarily encompassed within one building offering at least the following five (5) basic mental health services to the public: Community comprehensive mental health center.

(a) Twenty-four (24) hour inpatient care.

(b) Part-time hospitalization.

(c) Outpatient service.

HeinOnline -- 1967 vol. II 737 1967

(d) Emergency service.

(e) Consultation and education in mental health.

(3) Mental health clinic is an outpatient facility offering mental health care to the public.

Amending clause.

Section 2. Section 80-2403, R.C.M. 1947, is amended to read as follows:

Functions of division of mental hygiene.

"80-2403. **Functions of division of mental hygiene.** The division of mental hygiene of the department of institutions shall:

(1) Take cognizance of matters affecting the mental health of the citizens of the state.

(2) Initiate preventive mental hygiene activities of the state's mental health program, *including but not limited to the implementation of mental health care and treatment, prevention and research as can best be accomplished by community centered services. Such means shall be utilized by the division of mental hygiene as will initiate and operate these services in cooperation with local agencies as established under provisions of sections 4 and 5 below.*

(3) Make scientific and medical *research* investigations relative to the incidence, cause, prevention and care of mental illness.

(4) Collect and disseminate information relating to mental hygiene.

(5) Prepare *a comprehensive plan* for the development of *public* mental health services in the state. *Such public mental health services shall include, but not be limited to, community comprehensive mental health centers, mental hygiene clinics, traveling service units, consultative and educational services.*

(6) *Provide by regulation for the examination of* persons, *who shall apply for examination or who shall be admitted either as inpatients or outpatients into the state hospital or other public mental health facility under the supervision and control of the division of mental hygiene,* for the purpose of diagnosing and prescribing treatment of mental illness.

(7) Receive from agencies of the *government of the* United States and other agencies, *persons or groups of per-*

HeinOnline -- 1967 vol. II 738 1967

sons, associations, firms or corporations, grants of money, *receipts from fees, gifts, supplies, materials, and contributions,* for the development of mental *health* services within the state.

Department of institutions to control public mental health programs.

Section 3. The department of institutions, through the division of mental hygiene, shall control the public mental health programs which receive any state assistance by establishing and promulgating rules, regulations, and standards for providing mental health facilities and services. It shall set minimum standards for programs, establish appropriate qualifications and compensation scales and personnel policies for persons employed in such programs. All public mental health facilities and services shall, subject to the approval of the department of institutions, comply with existing federal guidelines and with requirements which will enable them to qualify for available matching funds.

Clinics and community services.

Section 4. **Clinics and community services.** (1) The division of mental hygiene may establish and conduct community comprehensive mental health centers, mental health clinics and other facilities in cities, towns and areas of the state for the purpose of aiding in the prevention, diagnosis and treatment of mental illness. Such centers, clinics or other facilities may be provided directly by state agencies or indirectly through contract or cooperative arrangements with other agencies of government, regional or local, private or public agencies, private professional persons or hospitals, under rules and regulations promulgated and established by the division of mental hygiene.

(2) State funds specifically appropriated for regional mental health service programs shall not exceed fifty percent (50%) of the total expenditures of the programs.

Mental health regions.

Section 5. **Mental health regions.** (1) Mental health regions shall be established in the state mental health plan and shall conform to the mental health regions as established in the state mental health construction plan promulgated by the state board of health under Sections 82-3314 to 82-3318, R.C.M. 1947, and the federal community mental health centers act.

Representative to regional board.

(2) Upon the establishment of the mental health regions, the county commissioners in each of the various

HeinOnline -- 1967 vol. II 739 1967

counties in a region shall designate a person from their respective county to serve as a representative of the county on a regional mental health board, which board shall be established under guidelines adopted by the division of mental hygiene. All appointments to said board shall be for terms of two (2) years.

Duties of board.

(3) The duties of any organized regional mental health board shall include:

(a) Annual review and evaluation of mental health needs and services within said region.

(b) Submission to the division of mental hygiene and to each of the participating counties within the region of plans and budget proposals to provide and support mental health services within the region.

(c) Establishment of a recommended proportionate level of financial participation by each of the counties involved in the provision of mental health service within the limits of this section.

(d) Receipt and administration of such monies and other support as are made available for the purpose of providing mental health services by the participating agencies, including grants from the United States government and other agencies, receipts for established fees for services rendered, tax monies, gifts, donations and other support.

Use of funds.

All funds so received by the board shall be used to carry out the purposes of this act.

(e) Supervision by appropriate administrative staff personnel of the operation of community mental health services in the region.

(f) Keeping all records of the board and making such reports as may be required.

Regional board members—compensation.

(4) Regional mental health board members shall be reimbursed from funds of the board for actual and necessary expense incurred in attending meetings and in the discharge of other board duties when assigned by the board.

Budgets.

(5) The regional board of mental health may submit to the board of county commissioners of each of the counties within the constituted mental health region an annual budget, specifying each county's recommended proportionate share, not later than June 10 in each year. If

HeinOnline -- 1967 vol. II 740 1967

the Board of County Commissioners shall include in the county budget the county's proportionate share of the regional board's budget, it shall be designated as a participating county. Funds for each participating county's proportionate share for the operation of mental health services within the region shall be derived from the county's general fund; provided, however, if the general fund is insufficient to meet the approved budget, a levy not to exceed one (1) mill may be made on the taxable valuation in addition to all other taxes allowed by law to be levied on such property.

Fee schedule.

(6) The regional board of mental health, with the approval of the division of mental hygiene, may establish a schedule of fees for mental health services supported by financial contributions of the region's participating counties, which fees shall be paid by each non-participating county for services rendered to the residents of such non-participating county. Such fees may be received by the board and used to implement the budget and to provide services.

Continuation of services.

Section 6. **Continuation of services.** Nothing in this act shall be construed to prevent the continuation of existing mental health services or facilities.

Availability of services.

Section 7. **Availability of services.** The services of the division of mental hygiene of the department of institutions shall be made available without discrimination on the basis of race, color, creed or ability to pay and shall comply with the provisions of title VI of the civil rights act of 1964.

Repealing clause.

Section 8. All acts and parts of acts in conflict herewith are hereby repealed.

Approved: March 1, 1967.

CHAPTER 247

An Act to Validate and Confirm Sales or Dispositions Heretofore Made or Attempted to Be Made by Any County of Any Property in Which Such County Had or Claimed Any Right, Title or Interest, and All Instruments of Transfer or Conveyance Heretofore Made or

HeinOnline -- 1967 vol. II 741 1967

Executed by Any County, and to Declare That All Such Sales, Dispositions and Instruments Have Vested in the Grantee or Purchaser, as of the Date Thereof, All Right, Title and Interest of the County in and to the Property Described or Covered.

Be it enacted by the Legislative Assembly of the State of Montana:

Confirmation of sale made by county.

Section 1. All sales or dispositions heretofore made or attempted to be made by any county of any property in which such county had or claimed any right, title or interest are hereby validated and confirmed, and all instruments of transfer or conveyance heretofore made or executed by any county are hereby validated and confirmed, and all such sales, dispositions and instruments are hereby declared to have vested in the grantee or purchaser, as of the date thereof, all right, title, estate and interest of such county in and to the property described or covered.

Approved: March 1, 1967.

CHAPTER 248

An Act to Submit to the Electors of Montana an Amendment to Section 5, Article V of the Montana Constitution Increasing the Limitation on the Length of Sessions and Providing that Per Diem and Expense Payments to Members of the Legislative Assembly for Days in Session Shall Not Be Made for More Than Eighty Days.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 5, Article V of the Constitution of the state of Montana is amended to read as follows:

Eighty-day legislative session to be submitted to electors.

'Section 5. No session of the legislative assembly shall exceed *eighty (80)* days.

*T*he compensation of the members of the legislative assembly shall be as provided by law; *however,* no legislative assembly shall fix its own compensation. *Per diem and expense payments to members for days in session shall not be made for more than eighty (80) days."*

HeinOnline -- 1967 vol. II 742 1967

Section 2. When this amendment is submitted to the electors of the state of Montana there shall be printed on the ballot the full title and Section 1 of this act and the following words: Form of ballot.

"☐ For the above amendment.

☐ Against the above amendment."

Approved: March 2, 1967.

CHAPTER 249

"The Legislative Audit Act" Creating a Legislative Audit Committee and the Office of Legislative Auditor and Providing for the Audit of State Agencies by the Legislative Auditor; Amending Sections 82-1002, 82-1005, 82-1007, 82-1009, 82-110, 71-206, 4-347, 4-230, and 5-910, R.C.M. 1947; Repealing Sections 82-1014, 82-1015, 82-1016, 84-4403, 84-4404, and 84-4405, R.C.M. 1947, and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. **Title and purpose of act.** This act may be cited as "The Legislative Audit Act." Because the legislative assembly is responsible for authorizing the expenditure of public moneys, designating the sources from which moneys may be collected, shaping the administration to perform the work of state government, and is held finally accountable for fiscal policy, the legislative assembly should also be responsible for the audit of fiscal accounts and records so that it may be assured that its directives have been faithfully carried out. It is the intent of this act that each agency of state government be audited for the purpose of furnishing the legislative assembly with factual information vital to the discharge of its legislative duties. "The Legislative Audit Act."

Section 2. **Definitions.** In this Act Definitions.

(1) "State Agency" means all offices, departments, boards, commissions, institutions, universities, colleges, and any other person or any other administrative unit of state government that spends or encumbers public moneys by virtue of an appropriation from the legislative assembly, or that handles money on behalf of the state, or that holds any trust or agency moneys from any source. "State agency."

HeinOnline -- 1967 vol. II 743 1967

"Committee." (2) "Committee" means the legislative audit committee.

Legislative audit committee—appointment and term of members—officers.

Section 3. **Legislative audit committee — appointment and term of members—officers.** The legislative audit committee consists of four (4) members of the Senate and four (4) members of the House of Representatives appointed before the sixtieth legislative day in the same manner as standing committees of the respective houses are appointed. A vacancy on the committee occurring when the legislative assembly is not in session shall be filled by the selection of a member of the legislative assembly by the remaining members of the committee. No more than two (2) of the appointees of each house shall be members of the same political party. Membership on the committee shall terminate with the termination of each member's term of office, or on December 31 of the year following the year in which the appointment was made, whichever event first occurs. The committee shall elect one of its members as chairman and such other officers as it deems necessary.

Meetings.

Section 4. **Meetings.** The committee shall meet once each quarter to advise and consult with the legislative auditor. Committee members shall be reimbursed from the appropriation to the office of the legislative auditor for their actual and necessary expenses incurred as a result of such interim meetings.

Legislative auditor—appointment and qualifications.

Section 5. **Appointment and qualifications of legislative auditor.** The committee shall appoint the legislative auditor and set his salary. The legislative auditor shall hold a degree from an accredited college or university with a major in accounting or an allied field and shall have at least two (2) years experience in the field of governmental accounting and auditing.

Employees.

Section 6. **Appointment of employees.** The legislative auditor may appoint whatever employees are necessary to carry out the provisions of this act, within the limitations of legislative appropriations.

Term and removal of auditor.

Section 7. **Term and removal of legislative auditor.** The legislative auditor is solely responsible to the legislative assembly. He shall hold office for a term of two (2) years beginning with July 1 of each odd numbered year. The committee may remove him for misfeasance,

HeinOnline -- 1967 vol. II 744 1967

malfeasance or nonfeasance in office at any time after notice and hearing.

Section 8. **Duties of legislative auditor.** The legislative auditor shall

Duties of auditor.

(1) Audit the financial affairs and transactions of every state agency at least once each biennium.

(2) Make a full, complete and written report of each audit. A copy of each report shall be furnished to the state controller, to the state agency which is audited, to each member of the committee, and to the legislative council.

(3) Report immediately in writing to the attorney general any apparent violation of penal statutes disclosed by the audit of a state agency, and furnish the attorney general all information in his possession relative to the violation.

(4) Report immediately in writing to the governor any instances of misfeasance, malfeasance or nonfeasance by a state officer or employee disclosed by the audit of a state agency.

(5) Report immediately to the surety upon the bond of any official or employee when an audit discloses a shortage in the accounts of the official or employee. The failure to notify the surety does not release the surety from any obligation under the bond.

(6) Report to the legislative assembly during the first week of each regular session. Each biennial report shall contain, among other things, copies of, or summaries of audit reports on state agencies and any recommendations relating to such reports.

Section 9. **Audit standards and objectives.** The objectives of audits of state agencies conducted by the legislative auditor are to determine whether

Audit standards and objectives.

(1) The agency is carrying out only those activities or programs authorized by the legislative assembly and is conducting them efficiently and effectively.

(2) Expenditures are made only in furtherance of authorized activities and in accordance with the requirements of applicable laws and regulations.

HeinOnline -- 1967 vol. II 745 1967

(3) The agency collects and accounts properly for all revenues and receipts arising from its activities.

(4) The assets of the agency or in its custody are adequately safeguarded and controlled and utilized in an efficient manner.

(5) Reports and financial statements by the agency to the governor, the legislative assembly, and central control agencies disclose fully the nature and scope of the activities conducted, and provide a proper basis for evaluating the agency's operations.

Recommendations of auditor.

Section 10. **Recommendations of legislative auditor.** The reports of the legislative auditor may include comments, recommendations and suggestions, but he shall have no power to enforce them nor shall he otherwise influence or direct executive or legislative action.

Auditor to assist legislative assembly.

Section 11. **Legislative auditor to assist legislative assembly during sessions.** During sessions of the legislative assembly, the legislative auditor and his staff, when requested, shall assist the legislative assembly, its committees, and its members by gathering and analyzing information relating to the fiscal affairs of state government.

Information from state agencies.

Section 12. **Information from state agencies.** All state agencies shall aid and assist the legislative auditor in the auditing of books, accounts and records. The legislative auditor may examine at any time the books, accounts and records, confidential or otherwise, of a state agency; however, this shall not be construed as authorizing the publication of information which the law prohibits publishing.

Audit charge.

Section 13. **Audit charge against earmarked money.**

(1) As used in this section

"Earmarked money."

(a) "Earmarked money" means a fund, account or any other money, other than general fund money, but excluding trust or agency money, that is earmarked for the support of a particular agency, program or service.

"Audit charge."

(b) "Audit charge" means the actual cost of the audit of a state agency by the legislative auditor as computed by the legislative auditor, but not more than seventy-five dollars ($75.00) per day.

HeinOnline -- 1967 vol. II 746 1967

(2) At the request of the legislative auditor, a state agency shall transfer to the general fund from earmarked moneys under its control an amount equal to the audit charge multiplied by the percentage that the annual expenditure of earmarked moneys is of the total annual expenditure of the state agency.

Section 14. Section 82-1002, R.C.M. 1947, is amended to read as follows: Amending clause.

"82-1002. **Duties of state examiner.** The duties of the state examiner and his assistants are: Duties of state examiner.

1. To examine at least once in each year the books and accounts of the state treasurer, clerk of the supreme court, county treasurers, county clerks, county assessors, district court clerks, county auditors, sheriffs, public administrators, boards of county commissioners of each county, and all other *county and municipal* officers, boards *and institutions*.

2. To prescribe the general methods and details of accounting for the receipt and disbursement of all moneys belonging to the counties, cities, towns, or school districts, and to establish in all such offices such general methods and details of accounting as are required by law or are prescribed by the state examiner, and all county, city, town or school district officers are hereby compelled to conform therewith.

3. To visit each and every office of the officers, boards and institutions named in this act at least once in each year; and at such time to examine the books, accounts and vouchers in said office, to verify statements of receipts and expenditures, and indebtedness, and to examine and pass upon the character and amounts of any commissions, percentage, or charges for services, exacted by any officer, and of all claims allowed by any of said officers, boards or institutions.

4. To visit twice each year, or oftener, without previous notice, each of the banks, banking corporations and saving banks, building and loan associations, investment and loan companies incorporated under the laws of this state, or doing business under any law of the state concerning corporations, and to examine into their affairs and ascertain their financial condition; to inspect and verify the value and the amount of their securities and

HeinOnline -- 1967 vol. II 747 1967

assets, and to inquire into any violation of laws governing such banks, institutions, building and loan associations.

5. The state examiner, after examination of the affairs of any *officer or* board of county commissioners, must make report to the governor and to the attorney general of the result of such examination, within sixty days thereafter; and if any violation of law or nonperformance of duty is found on the part of any such officer or board, they must be proceeded against by the attorney general or county attorney as provided by law.

6. The state examiner, or his assistants, after the examination of the affairs of any county officers, must make report of such examination to the board of county commissioners and to the county attorney of such county, within thirty days after such examination; and if any violations of law or nonperformance of duty is found on the part of any county officer or board, such officer or board must be proceeded against by the county attorney of the county as provided by law.

7. The state examiner must make an annual report to the governor immediately after the end of each fiscal year.

8. It shall be the duty of the county attorneys of the various counties of the state of Montana and the city attorneys of the various cities and towns of the state of Montana to make report to the state examiner within thirty days after receiving from the state examiner the report of any examination of any county, city or town, as to what proceedings he has instituted or is intending to institute relating to violations of law and nonperformance of duty, as set forth in the report of the state examiner.

9. It any county or city attorney refuses or neglects to notify the state examiner within thirty days after receiving the report of any examination of any county, city or town, as to what proceedings he has instituted or is about to institute against any officer for violations of law or nonperformance of duty, as evidenced by matters of record, and as set forth in the state examiners report; the state examiner may withhold the salary of such county or city attorney by filing notice with the proper

HeinOnline -- 1967 vol. II 748 1967

officials, until proper and satisfactory explanation has been made to the state examiner for such nonperformance of duty, provided further, that should the county or city attorney fail or refuse to prosecute such cases, the state examiner may employ an attorney to prosecute such case at the expense of the county, city, or town."

Section 15. Section 82-1005, R.C.M. 1947, is amended to read as follows:

"82-1005. **Power to examine books and papers.** The state examiner or his assistant has power to examine any books, papers, accounts, and documents in the office or possession of any county or banking or other institution referred to in this act, and to send for persons or papers and to examine under oath any and all persons concerning the same."

Power to examine books and papers.

Section 16. Section 82-1007, R.C.M. 1947, is amended to read as follows:

Amending clause.

"82-1007. **Access to accounts of public officers—actions to compel.** (1) The state examiner shall have full power and authority to count the cash, verify the bank accounts and verify any and all acounts of any public officer whose accounts he is examining pursuant to law.

Access to accounts of public officers —actions to compel.

(2) Any county, city, town or school district officer who shall refuse to accord the state examiner access during an examination of such officer's accounts, to his cash, bank accounts, or any of the papers, vouchers or records of his office, or if the state examiner, after counting the cash and verifying the bank accounts of such officer shall find that a shortage exists in the accounts of said officer, the state examiner shall forthwith file a verified preliminary report showing the refusal of such officer to accord to him access to the examination of such accounts, cash, bank accounts, papers, vouchers or records, or the existence of such shortage, and the amount or approximate amount thereof with the board of county commissioners of the proper county if the officer be a county or school district officer, and with the city or town council if the officer be a city or town officer; upon the filing of such verified statement, such officer shall immediately be suspended from the duties and emoluments of his office, and the board of county commissioners of the county in case of county or school district officers, and the city or town

HeinOnline -- 1967 vol. II 749 1967

council in case of a city or town officer, shall appoint some qualified person to such office, pending the completion of such examination.

(3) Upon the completion of the audit or examination of the accounts of such officer by the state examiner, if a shortage shall be found to have existed in the accounts of such officer on the date of the commencement of such examination, the state examiner shall file, in the office of the board of county commissioners of the proper county in the case of a county or school district officer, and with the city or town council in the case of a city or town officer, a verified final report of the examination or audit, showing such shortage, whereupon the right of such officer to such office shall be forfeited, and such office shall thereupon become vacant as of the date of the suspension of such officer as hereinabove provided, and the person appointed to such office upon the suspension of said officer shall hold said office until the election and qualification of his successor, as provided by law.

(4) Any officer whose right to office has been forfeited may, within ten days after the filing of the state examiner's final report or audit as herein provided, institute in the district court of the proper judicial district, a proceeding in quo warranto to test the right of his successor to hold such office, and the accuracy of the said final report and audit of the state examiner."

Amending clause.

Section 17. Section 82-1009, R.C.M. 1947, is amended to read as follows:

Laws applicable to examinations.

"82-1009. **Laws applicable to such examinations.** That all laws now in force relative to the examination of the books and accounts of county officers, are, and the same are hereby declared to be applicable to the examination of the books and accounts of incorporated cities and towns, and to the books and accounts of school districts of the first and second class."

Amending clause.

Section 18. Section 82-110, R.C.M. 1947, is amended to read as follows:

Controller to prescribe uniform accounting system.

"82-110. **Controller** *to prescribe* **uniform accounting system.** (a) The controller shall prescribe and install uniform accounting and reporting for the several state boards, bureaus, departments, commissions and institutions showing the receipt, use and disposition of all pub-

HeinOnline -- 1967 vol. II 750 1967

lic money and property, and shall develop plans for improvements and economies in the organization and operation thereof which shall be submitted to the respective heads of such boards, bureaus, departments, commissions and institutions. Copies of all such plans shall be delivered to the governor and additional copies shall be retained in the office of the controller for inspection by the members of the legislative assembly.

(b) The controller shall have the power and it shall be his duty to examine into all financial affairs of every state board, commission, bureau, department and institution for the purpose of developing plans for improvements and economies in the organization and operation thereof, and for the purpose of enabling him to properly perform any of the duties imposed upon him by this act.

(c) All officers, employees and other persons connected with the fiscal affairs of any state office, board, bureau, department, commission or institution must afford all reasonable facilities for the examination of accounts and investigations provided for in this act, and must make reports, returns and exhibits relating to such fiscal matters to the controller in such form as he shall prescribe; and the controller shall have and keep in his office the names of and amount of salary paid to each person regularly employed by the state of Montana and every agency thereof.

(d) If any officer or employee of the state or any agency thereof shall refuse or neglect to comply with subdivision (c) of this section, the salary of such officer or employee shall, on request of the controller to the proper official, be withheld until such recreant officer or employee shall comply therewith and the controller certifies approval to the disbursing officer."

Section 19. Section 71-206, R.C.M. 1947, is amended to read as follows: Amending clause.

"71-206. **Records to be maintained and reports rendered.** The state department of public welfare shall maintain such records and render such reports as may be required by the federal board and such additional records and reports as shall be found necessary for state purposes or required by the state *controller*. County departments shall likewise be required to maintain such records and render such reports as the state board may require. Records and reports.

HeinOnline -- 1967 vol. II 751 1967

The fiscal rules and regulations of the United States government, as enjoined upon the states in respect to the Federal Social Security Act, shall be used by the state and county departments as a method of accounting for all joint federal state funds."

Amending clause.

Section 20. Section 4-347, R.C.M. 1947, is amended to read as follows:

Revenue—payment and disposition.

"4-347. **Revenue to be paid to state treasurer—disposition of revenue.** All fees, charges, taxes and revenues collected by or under authority of the Montana liquor control board, under the Montana beer act shall be paid over to the state treasurer on or before the tenth day of each and every month who shall deposit said funds to the credit of the state general fund."

Amending clause.

Section 21. Section 4-230, R.C.M. 1947, is amended to read as follows:

"4-230. **When balance sheet and profit and loss statement to be made.** The accounts of the board shall be made up for the fiscal year ending June 30 in each year. *In* every case the board shall prepare a balance sheet anl statement of profit and loss and submit the same to the state *controller.*"

Amending clause.

Section 22. Section 5-910, R.C.M. 1947, is amended to read as follows:

Special examinations and fees.

"5-910. **Special examinations and fees.** Special examinations may be made of any county, city, town, school district, irrigation district, high school, bank,, building and loan association, credit union or any other *county or municipal* office, board or commission, whether temporary or permanent, however created, and for whatever purpose, having the control, management, collection or disbursement of any public money of any character or description, when in the judgment of the state examiner it shall be deemed necessary, and such special examination shall be charged for at the rate of sixty dollars ($60.00) a day for each person engaged in the examination. All special examination fees or charges so collected by the state examiner and ex officio superintendent of banks and paid to the state treasurer, except those collected from state agencies, shall be placed in the earmarked revenue fund to be drawn upon by the state examiner and ex officio superintendent of banks to defray the actual costs and

HeinOnline -- 1967 vol. II 752 1967

expenses of such special examinations, but all moneys remaining at the end of each current year shall be transferred by the state treasurer to the general fund.

In any case where the current examination shall not have been made prior to the first day of July of any year, the above fees enumerated in sections 5-904, 5-905, 5-906, 5-907, 5-908 and 5-909 must be paid as herein specified, provided, however, that all examinations shall cover the entire period from the date of the last examination."

Repealing clause.

Section 23. Sections 82-1014, 82-1015, 82-1016, R.C.M. 1947, enacted as Sections 1, 2 and 3, Chapter 279, Laws of 1959, and Sections 84-4403, 84-4404, and 84-4405, R.C.M. 1947, are repealed.

Effective dates.

Section 24. Sections 1 through 13 and section 24 of this act are effective on passage and approval. Sections 14 through 23 of this act are effective July 1, 1967.

Approved: March 2, 1967.

CHAPTER 250

An Act Providing for the Adoption of Orderly Procedures for Establishing Desirable Employment Practices for Registered Professional and Licensed Practical Nurses Employed in Health Care Facilities; Establishing Procedures for Establishing Standards and Procedures for Employment Relationships.

Be it enacted by the Legislative Assembly of the State of Montana:

Act to encourage desirable employment practices between nurses and employers.

Section 1. The purpose of this act is to encourage effective measures to assure uninterrupted continuation of sufficient competent nursing care of the ill and infirm in the state of Montana, and further to encourage the practice of mutually and peacefully agreeing upon the establishment and maintenance of desirable employment practices between nurse employees, professional and practical, and their health care facility employers, either public or private.

Definitions.

Section 2. **Definitions.** As used in this act, unless the context clearly requires otherwise:

HeinOnline -- 1967 vol. II 753 1967

"Appropriate unit." (1) "Appropriate unit" means a homogenous group of employees (as herein defined) of a health care facility, having similar duties and qualifications, determined pursuant to section 4 of this act.

"Employee." (2) "Employee" means a registered professional or licensed practical nurse performing services for compensation for a health care facility, but does not include a member of a religious order assigned to a health care facility by the order as a part of her obligations to the order.

"Health care facility." (3) "Health care facility" means a hospital or nursing home, or other agency or establishment, employing employees as defined in this act, whether operated publicly or privately, having as one of its principal purposes the preservation of health or the care of sick or infirm individuals or both.

"Board." (4) "Board" or "board of health" means the state board of health.

Improper employment by health care facility. Section 3. It is an improper employment practice for a health care facility to do one or more of the following:

(1) Interfere with or restrain or coerce employees in any manner in the exercise of their right of self organization;

(2) Initiate, create, dominate, contribute to or interfere with the formation or administration of an employee organization that has collective bargaining as one of its principal functions;

(3) Discriminate in regard to hire terms or conditions of employment when a purpose of such is to discourage membership in an employee organization that has collective bargaining as one of its principal functions;

(4) Refuse to meet and bargain in good faith with the duly designated representatives of an appropriate bargaining unit of its employees. For the purpose of this subsection, it is a requirement of bargaining in good faith that the parties be willing to reduce in writing, and have their representative sign, any agreement arrived at through negotiations and discussion;

(5) Unilaterally exclude from work or prevent from working, or discharge any one or more employees, when

HeinOnline -- 1967 vol. II 754 1967

the purpose of such action is, in whole or in part, to interfere with or coerce or intimidate an employee in the exercise of rights assured in this law.

Appropriate unit by mutual consent.

Section 4. (1) The composition of an appropriate unit in a health care facility, for purposes of this law, may be determined by mutual consent between such facility and the employees thereof.

No mutual consent.

(2) In the event no such mutual consent is available, then either the facility, or representatives of employees may apply to the state board of health and said board, through a duly designated agent, shall make a determination of the composition of such an appropriate unit.

Prefssional and nonprofessional employees.

(3) In determining such appropriate unit professional employees may not be included in the same unit with nonprofessional employees unless a majority of professional employees in a proposed unit desire such inclusion. Weight shall be accorded similarity of duties, licensure, and conditions of employment, among other relevant factors, in determining an appropriate unit.

Duly designated representative.

Section 5. An employee organization is considered to be the duly designated representative of all the employees in an appropriate unit for the purpose of section 3 of this act if it can show evidence that bargaining rights have been assigned to it by a majority of the employees in that unit.

Right of employee organization for representation—determination.

Section 6. (1) If the right of an employee organization to represent the employees in an appropriate unit is questioned by the authority in charge of the facility employing the employees, the employee organization may petition the board of health for a determination. The board of health, or his representative, shall investigate and determine the composition of an appropriate unit, if such determination has not previously been made under section 4 of this act, and shall determine the representative, if any, designated to represent the employees in the appropriate unit.

Election.

(2) An employee organization found by the state board of health to be authorized by at least thirty percent (30%) of the employees in an appropriate unit may apply for an election by secret ballot to determine its right to represent the employees in that unit. If more than one employee organization claims to represent em-

HeinOnline -- 1967 vol. II 755 1967

ployees in that unit, the state board of health may conduct an election by secret ballot to determine which is authorized to represent the unit. If an employee organization receives a majority of the valid votes cast at the election, it is considered to be authorized to represent all the employees in that unit for the purpose of section 3 of this act.

Term.

(3) A determination under this section remains in effect for at least one (1) year.

Restraint of improper practices

Section 7. The board of health, a health care facility, or an employee organization qualified to apply for an election under section 6 of this act may, in the name of its members, or in its name, institute proceedings to restrain the commission of any improper practice listed in section 3 of this act. The proceeding may be instituted in the district court for any county in which the health care facility does business. The court in such an action may grant mandatory or prohibitory relief.

Severability clause

Section 8. This act shall be severable, and should any part or provision hereof be held to be unconstitutional such declaration will not invalidate the remaining provisions hereof.

Effective term.

Section 9. This being an act to assist in the public health and safety, it shall be in full force and effect from July 1, 1967 to June 30, 1969.

Approved: March 1, 1967.

CHAPTER 251

An Act to Amend Section 32-2601, R.C.M. 1947, Relating to the Distribution and Use of Proceeds of Gasoline License Tax, by Providing That the Percentage of All Receipts Deposited and Credited to the State Park Account in the Earmarked Revenue Fund for Creation, Improvement, and Maintenance of State Parks Be Reduced From One Percent (1%) to Six-Tenths of One Percent (.6%), and by Providing for Refund of Gasoline License Tax From Said Account to Purchasers of Gasoline for Use in Motor Boats; and to Amend Section 84-1818, R.C.M. 1947, to Include Gasoline Used in Motor Boats Among the Uses Entitling Gasoline Purchasers to Refund of Gasoline License Tax.

HeinOnline -- 1967 vol. II 756 1967

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 32-2601, R.C.M. 1947, is amended to read as follows: Amending clause.

"32-2601. **Distribution and use of proceeds of gasoline dealers' license tax.** *Six-tenths of* one per cent *(.6%)* of all money received in payment of license taxes under the provisions of this act shall be deposited in the state park account in the earmarked revenue fund. All other money received, except that amount paid out of the state board of equalization's suspense account for gasoline tax refund shall be used and expended by the state highway commission on the federal-aid highways in this state selected and designated under the provisions of the Federal-Aid Act, approved July 11, 1916, and the Federal Highway Act, approved November 9, 1921, and all amendments thereto, and on highways leading from each county seat in the state to said federal highway system of federal-aid roads where such county seat is not on said system, and on such other roads as have been or may be authorized by the laws of Montana, for the collection and enforcement of this act, pursuant to the provisions of article XII, section 1 (b) of the constitution of the state of Montana. It shall be the duty of the state highway commission, in expending such money, to carry forward construction from year to year, using the money expended through the matching up of federal-aid allotments to Montana upon the said federal highway system of highways in the various parts of the state in accordance with the provisions of section *32-2605* through *32-2607;* provided that nothing in this act shall be construed to conflict with said federal-aid highway acts and the rules by which they are administered. The state highway commission is authorized to enter into co-operative agreements with the national park service and the bureau of public roads for the purpose of maintaining national park approach roads in Montana. Distribution and use of proceeds of gasoline dealers' license tax.

Money credited to the state park account in the earmarked revenue fund shall be used only for the creation, improvement, and maintenance of state parks where motor boating is allowed, *except for the payment of refunds as provided in section 84-1818, R.C.M. 1947.* The legislative assembly hereby finds as a fact that of all the fuel sold in the state of Montana for consumption in internal combustion engines, not less than *six-tenths of* one per centum Use of state park account.

HeinOnline -- 1967 vol. II 757 1967

(.6%) is used for propelling boats on waterways of this state."

Amending clause.

Section 2. Section 84-1818, R.C.M. 1947, is amended to read as follows:

Refund of gasoline license tax.

"84-1818. **Refund of gasoline license tax—procedure.** (1) Any person who shall purchase and use any gasoline, with reference to which there has been paid into the treasury of the state of Montana, under the laws of this state licensing dealers in gasoline, a state gallonage tax, for the purpose of operating or propelling stationary gas engines, tractors used for purposes other than on the public highways or streets of this state, *motor boats,* aeroplanes or aircraft, or for cleaning or dyeing, or for any commercial use other than propelling vehicles upon any of the public highways or streets of this state, and who has paid said tax either directly to the state of Montana or indirectly as a part of the purchase price of said gasoline, shall be allowed and paid as a refund or drawback *from the account credited with such tax* an amount of money equal to the unit state gallonage tax, multiplied by the number of gallons of gasoline so purchased and used, provided that counties, incorporated cities, towns and school districts of this state shall be exempt from the payment of said tax by any such county, city, town or school district upon gasoline used by it in the performance of any of its governmental and proprietary functions, or either, imposed or authorized by law, including construction, maintenance and repair of all roads, highways and public places within the county limits and all streets, avenues, alleys and other public places within the corporate limits of such city or town and such exemption from payment of tax shall be allowed at the time of sale when purchaser furnishes to the seller a valid exemption certificate on a form approved by the state board of equalization; provided, that such refund or drawback shall in no instance exceed the total amount of the tax paid or to be paid, to the state of Montana, upon presenting to the board of equalization of the state of Montana, within the time allowed by law, a written statement, accompanied by the invoice or invoices issued to the claimant at the time of purchase and delivery of such gasoline showing such purchase and use, which statement shall set forth in words and figures, the total amount of the gasoline so purchased, and the purpose for which the

HeinOnline -- 1967 vol. II 758 1967

same was actually used, the amount of the tax and such additional information as may be required by said board on forms to be furnished by them; each separate delivery shall constitute a purchase for the purpose hereof.

Procedure.

(2) All such applications for refunds or drawbacks shall be filed with the board of equalization of the state of Montana within twelve (12) months after the date on which such gasoline was purchased as shown by such invoices. The said board shall have one hundred twenty (120) days thereafter within which to make such investigation as it may desire, to ascertain the truths of the statements made. If the statement is found to be correct and is approved by said board a warrant shall be drawn upon the state treasurer for the amount of such claim and same shall be paid in the same manner as other claims against the state are paid. Such refund or drawbacks shall be made only to, and on the application of, the actual purchaser and user of the gasoline upon which refund is claimed and the burden of establishing the validity of the claim rests upon the claimant.

Correction of statement.

(3) Should the board of equalization, after investigation, find that the statement so made by said consumer contains errors which, in the opinion of the board, were not inserted for the purpose of fraud, it may correct the statement and approve the same as corrected, whereupon warrant shall issue, or the board may, in its discretion, require the claimant to file an amended statement before action is taken thereon. If, upon investigation, it shall be determined by the state board of equalization that any claim has been fraudulently presented or is supported, as to any item therein by invoice or invoices fraudulently made or altered in any manner, or that any statement in the claim contained or the affidavit thereto, is willfully false in any particular and so made for the purpose of misleading said board, the board may reject such claim in toto.

Application.

(4) Any person desiring to claim refund on gasoline purchased shall obtain from the state board of equalization a permit by application therefor, on such form as the board shall prescribe, which application shall be made under oath and shall contain, among other things, the name, address and occupation of the applicant, the nature of the business, and a sufficient description for identification of the machines or equipment in which the taxable

HeinOnline -- 1967 vol. II 759 1967

motor fuel is to be used for which refund may be claimed under such permit.

Permits.

(5) Each permit issued shall bear a permit number and each claim filed shall bear the permit number of the claimant. It shall be the duty of the state board of equalization to keep a record of all permits issued and a cumulative record of refund claimed and paid thereunder.

Fee.

A fee of one dollar ($1.00) shall be collected from each person to whom a refund permit is issued after July 1, 1953. No refund shall be paid to any person after July 1, 1953, unless said person has first secured a refund permit and paid said fee. The refund permit must be renewed and the license fee paid every five years from the date of issuance.

Rejection of claims.

(6) Whenever a claim shall be rejected, as herein provided, the state board of equalization may suspend the claimant's permit, for a period not exceeding one year, and no claim shall thereafter be approved or allowed for refund on any gasoline purchased by such claimant during such period of suspension.

Invoices at time of delivery.

(7) When gasoline is sold and delivered to a person who shall claim to be entitled to a refund with respect to the tax imposed, the seller of such gasoline shall make and deliver at the time of such sale and delivery separate invoices for each purchase on invoice forms approved by the state board of equalization showing the name and address of the seller and the name and address of the purchaser, the number of gallons of gasoline so sold in words and figures and the date of such purchase, and whether an aviation gasoline tax exemption certificate has been issued with respect to such sale, which invoice, attached to the claim presented shall be the only proof upon which a legal claim can be made for a refund based upon such purchase, and no refund shall be allowed on any sale with respect to which an aviation gasoline tax exemption certificate has been issued; provided, however, that in case the separate invoice delivered to the purchaser at the time of sale be either lost or destroyed he may make claim to the board of equalization for such refund, supporting the same by affidavit reciting the circumstances of such loss or destruction and produce such other evidence as may be required by the board

HeinOnline -- 1967 vol. II 760 1967

including an actual duplicate carbon copy of the original invoice or invoices. If the board be satisfied as to the sufficiency of the claim and supporting evidence, proper refund shall be made six (6) months thereafter. Except where surrendered to the purchaser for such purpose, the seller shall retain the duplicate original invoices for the period of one year from and after the date of issuance, during which period they shall be open to inspection by the state board of equalization and its agents. Such invoices shall be legibly written and shall be void if any corrections or erasures appear on the face thereof. The seller shall, in filling out invoices, use double-faced carbons.

Effective date.

(8) Upon the effective date of this act, each seller of such gasoline upon which a refund may be claimed by the purchaser, shall obtain a permit from the state board of equalization to sell such gasoline upon application therefor to the board, upon such form as the board shall prescribe, which application shall be made under oath and shall contain among other things, the name and address of the applicant, the place or places of his or its business within the state of Montana. Such permit issued shall bear a permit number and the date of issuance. It shall be the duty of the state board of equalization to keep a record of all such permits issued to sellers, and the suspension or cancellation of any thereof. Such permits shall be issued for the calendar year upon payment of a fee of one dollar ($1.00). Such permit must be renewed annually on or before the first day of January, 1956, and each year thereafter, upon such application and fee paid. After the effective date of this act, it shall be unlawful for any person, firm, corporation or association to sell such gasoline upon which a refund may be claimed without a valid permit therefor. If any such person, firm, corporation or association shall sell any such gasoline without being the holder of a valid permit therefor, he shall be punished by a fine of not less than twenty-five dollars ($25.00), or more than two hundred dollars ($200.00), or be imprisoned in the county jail for a period of not less than ten days (10) nor more than sixty (60) days, or by both such fine and imprisonment."

Approved: March 2, 1967.

HeinOnline -- 1967 vol. II 761 1967

CHAPTER 252

An Act to Provide That the State Supervisor of Health, Physical Education and Recreation Instruction Shall Have a Master's Degree in Physical Education; Providing an Annual Salary Comparable to Other Supervisors; Amending Section 75-2009, R.C.M. 1947 and Repealing Section 75-2010, R.C.M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. 75-2009, R.C.M. 1947 is amended to read as follows:

Health instruction in public schools.

"75-2009. **Health instruction in public schools required.** Instruction in health, physical education and recreation shall be a part of the course of instruction and training in the public elementary and secondary schools. *The course of instruction shall be prepared by the state superintendent. To provide supervision for the instruction, he shall appoint a supervisor who is a graduate of an accredited institution of higher education with a master's degree in physical education. The supervisor's annual salary shall be comparable to other supervisor's.*"

Repealing clause.

Section 2. Section 75-2010, R.C.M. 1947 is repealed.

Approved: March 2, 1967.

CHAPTER 253

An Act to Amend Section 84-4931, R.C.M. 1947, Relating to the Confidential Nature of Information Contained in State Income Tax Reports and Exceptions Thereto; Requiring Board of Equalization to Furnish to Highway Patrol Board Information Necessary to Identify Those Persons Qualifying for Additional Exemption for Blindness.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 84-4931, R.C.M. 1947, is amended to read as follows:

Divulging information unlawful—exceptions—penalty.

"84-4931. (2295.30) **Divulging information unlawful—exceptions—penalty.** (1) Except in accordance with proper judicial order or as otherwise provided by law, it is unlawful for the board or any deputy, assistant, agent, clerk or other officer or employee to divulge or make

HeinOnline -- 1967 vol. II 762 1967

known in any manner the amount of income or any particulars set forth or disclosed in any report or return required under this act, or any other information secured in the administration of this act. The officers charged with the custody of such reports and returns shall not be required to produce any of them or evidence of anything contained in them in any action or proceeding in any court, except in any action or proceeding under the provisions of this act, or any other taxing act, to which the board is a party, or on behalf of any party to any action or proceedings under the provisions of this act or such other act when the reports or facts shown thereby are directly involved in such action or proceedings, in either of which events, the court may require the production of, and may admit in evidence, so much of said reports or of the facts shown thereby, as are pertinent to the action or proceedings and no more. Nothing herein shall be construed to prohibit the delivery to a taxpayer or his duly authorized representative of a certified copy of any return or report filed in connection with his tax nor to prohibit the publication of statistics so classified as to prevent the identification of particular reports or returns and the items thereof, or the inspection by the attorney general, or other legal representatives of the state, of the report or return of any taxpayer who shall bring action to set aside or review the tax based thereon, or against whom an action or proceeding has been instituted in accordance with the provisions of section 84-4928 and section 84-4929. Reports and returns shall be preserved for three (3) years and thereafter until the board orders them to be destroyed.

(2) Any offense against subdivision one (1) of this section shall be punished by a fine not exceeding one thousand dollars ($1,000.00), or by imprisonment in the county jail not exceeding one (1) year, or both, at the discretion of the court, and if the offender be an officer or employee of the state, he shall be dismissed from office and be incapable of holding any public office in this state for a period of one (1) year, thereafter.

(3) Notwithstanding the provisions of this section, the board may permit the commissioner of internal revenue of the United States, or the proper officer of any state imposing a tax upon the incomes of individuals, or the authorized representatives of either such officer, to

HeinOnline -- 1967 vol. II 763 1967

inspect the returns of income of any individuals, or may furnish to such officer or his authorized representatives an abstract of the return of income of any individual or supply him with information concerning any item of income contained in any return, or disclosed by the report of any investigation of the income or return of income of any individual, but such permission shall be granted or such information furnished to such officer or his representative, only if the statutes of the United States or of such other state, as the case may be, grant substantially similar privileges to the proper officer of this state charged with the administration of this act.

(4) Further, notwithstanding any of the provisions of this section, the board shall furnish to the Montana highway patrol board all information necessary to identify those persons qualifying for the additional exemption for blindness pursuant to section 84-4910 (d), for the purpose of enabling said highway patrol board to administer the provisions of section 31-127, R.C.M. 1947."

Approved: March 2, 1967.

CHAPTER 254

An Act Relating to Area Vocational-Technical Education; Amending the Definition of Vocational Education; Providing for Apportionment of Funds; Providing for Designation of Area Vocational-Technical Schools, Admission of Students, Fees, Tuition and State Aid; Providing for Average Number Belonging; Amending Sections 75-4246, 75-4301, 75-4302, 75-4303, 75-4304, 75-4305, 75-4306 and 75-4307; and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 75-4246, R.C.M., 1947, is amended to read as follows:

Apportionment of funds for vocational education.

"75-4246. **Apportionment of funds for vocational education.** The state board of education shall apportion all moneys appropriated for vocational education, and any money received for vocational education from the federal government under the acts of Congress mentioned in section 75-4241, or otherwise to the public elementary schools and public high schools of the state in which

HeinOnline -- 1967 vol. II 764 1967

there are established and maintained courses for vocational training in agriculture, home economics, the trades and industries and the commercial branches. But no apportionment shall be made to any school until the courses for vocational training in such school and the instructors employed therein shall first have been approved by the state board of education. Moneys received from the federal government for the purpose of training teachers, supervisors, and directors of vocational courses together with all moneys appropriated from time to time by the legislative assembly of the state of Montana for a like purpose shall be apportioned by the state board of education to the several educational institutions of the state wherein vocational teachers, supervisors and directors are trained under the direction of the said state board. *Funds for area vocational-technical education shall be apportioned to area vocational-technical schools meeting the requirements for eligibility for such funds.*''

Amending clause.

Section 2. Section 75-4301, R.C.M., 1947, is amended to read as follows:

Designation of vocational-technical schools.

"75-4301. **Designation of** *area vocational-technical schools.* The state board for vocational education may, upon the application of the board of trustees of any district high school, county high school, high school district, *junior college or community college, designate such educational institution as an area vocational-technical school. The board may also designate any unit of the Montana university system as an area vocational-technical school.*''

Amending clause.

Section 3. Section 75-4302, R.C.M., 1947, is amended to read as follows:

Branches of vocational education.

"75-4302. **Branches of vocational education.** Vocational education shall include those branches of training for which the federal government by any act of Congress is, or may be, authorized to compensate the states for promoting vocational education *including, but not limited to, education* in agriculture, home economics, the trades and industries, distributive occupations, aeronautics, and the commercial branches.''

Amending clause.

Section 4. Section 75-4303, R.C.M., 1947, is amended to read as follows:

Eligibility and procedure for admission.

"75-4303. **Eligibility and procedure for admission.** *The state board for vocational education shall prescribe*

HeinOnline -- 1967 vol. II 765 1967

rules governing the admission of students to area vocational-technical schools designated by the state board for vocational education. When facilities are inadequate to admit all applicants, priority for admission shall be given first to students under twenty-one (21) years of age residing in Montana, second to students twenty-one (21) years of age or older residing in Montana, and third to students from other states."

Amending clause.

Section 5. Section 75-4304, R.C.M., 1947, is amended to read as follows:

Tuition charges.

"75-4304. *There may be a tuition charge for attendance at an area vocational-technical school. The rate of tuition may be fixed by the agency operating the school, subject to aproval by the state board for vocational education.*

(1) For a resident of Montana under twenty-one (21) years of age, the tuition may not exceed four hundred dollars ($400) per year.

(2) No tuition charge shall be made for a student under twenty-one (21) years of age who resides in the county in which he attends an area vocational-technical school.

(3) The tuition charge for a student under twenty-one (21) years of age who resides in another county in Montana shall be paid by the county of residence.

(a) Upon entering an area vocational-technical school, such student must notify the county superintendent of the county of his residence of the school to be attended, and must apply for approval of such attendance. The county superintendent, upon verifying the admission of the student to the school, shall approve his application.

(b) Tuition for any period of attendance between July 1 and June 30 is an obligation of the county of residence for the following year, in such amount as the state board for vocational education may approve.

(c) Before July 15 of the year following the year of attendance, the agency operating the school shall notify the county superintendent of the county where the school is located of the names and home addresses of all out-of-county students, with the approved amount of tuition due for each. The county superintendent shall transmit this information to the county superintendents of the counties where all such students reside.

HeinOnline -- 1967 vol. II 766 1967

(d) The procedure for budgeting and paying high school tuition set forth in section 75-4230, R.C.M., 1947, as amended, shall be used to budget and pay tuition for vocational students, provided, however, that the rates and attendance periods for high school attendance shall not apply to vocational students.

(4) For a student who is not a resident of Montana, the procedure for tuition payment shall be established by the state board for vocational education. In lieu of individual payment the state board may negotiate a tuition agreement with the appropriate educational agency of the state of the student's residence."

Section 6. Section 75-4305, R.C.M., 1947, is amended to read as follows: Amending clause.

"75-4305. *Only Montana residents under twenty-one (21) years of age attending area vocational-technical schools may be counted in the average number belonging (ANB)."* Average number belonging.

Section 7. Section 75-4306, R.C.M., 1947, is amended to read as follows: Amending clause.

"75-4306. *To assist with the cost of operating an area vocational-technical school, a board of trustees may apply to the state board for vocational education for state aid provided the board of trustees has made the maximum approved tuition charge payable by the county of the student's residence.* State aid for vocational education.

State aid may be paid from any state funds appropriated for reimbursement to schools for vocational education.

The state board for vocational education shall fix the amount of state aid per student, based on the period of attendance, hours of instruction and such other criteria as the board may establish."

Section 8. Section 75-4307, R.C.M., 1947, is amended to read as follows: Amending clause.

"75-4307. **Fees chargeable.** Fees for the use of equipment and material used in training may be charged by the *agency operating an area vocational-technical school."* Fees chargeable.

Section 9. This act is effective on its passage and approval. Effective immediately.

Approved: March 2, 1967.

HeinOnline -- 1967 vol. II 767 1967

CHAPTER 255

An Act Requiring the Board of Institutions to Establish Mental Health Centers in Miles City and Glasgow for Care and Treatment of Mentally Ill Persons, Providing Staff and Service Requirements to Be Under Supervision and Regulations of the Board; Requiring the Board to Establish, Construct, Equip, Maintain and Staff a Mental Retardation Center at Glendive, Providing for Residential and Outpatient Care of Mentally Retarded Persons as an Extension of the State Training School and Hospital Under Supervision and Regulations of the Board, Not to Exceed Two Hundred Bed Units; and Providing for Temporary Transfers to State Training School and Hospital at Boulder.

Be it enacted by the Legislative Assembly of the State of Montana:

Mental health centers in Miles City and Glasgow. Staff.

Section 1. (a) The board of institutions shall establish mental health centers in Miles City and Glasgow for the care and treatment of mentally ill persons residing in Montana. Each center shall be staffed with at least one of each of the following:

(1) Psychiatrist.

(2) Psychologist.

(3) Psychiatric nurse or social worker.

(b) Each center shall provide the following services:

(1) Short term inpatient service.

(2) Partial inpatient service.

(3) Rehabilitation.

(4) Communities education.

Supervision.

Section 2. The mental health centers shall be established, organized and supervised by the board of institutions, under rules and regulations of the board authorized in section 80-145.

Mental retardation center at Glandive.

Section 3. The board of institutions shall establish, construct, equip, maintain and provide services for a mental retardation center at Glendive for residential and outpatient care of mentally retarded persons residing in Montana. The center shall be planned, constructed, equipped and shall provide services similar to those pro-

HeinOnline -- 1967 vol. II 768 1967

vided at the state training school and hospital at Boulder; provided, however, that the center shall not be a duplication of the state training school and hospital but shall be an extension thereof.

Section 4. The center to be constructed under the provisions of this act shall not exceed the requirements of two hundred (200) bed units.

Supervision.

Section 5. The board of institutions shall plan, supervise, and provide rules and regulations for, but not limited to, the construction, equipment, maintenance, staff requirements and services to be provided at the center. The board shall provide for temporary transfers from the Glendive center to the state training school and hospital at Boulder for special medical, psychological, surgical or other services on a temporary basis.

Approved: March 2, 1967.

CHAPTER 256

An Act to Provide a Penalty for Operating Without a License as an Insurance Agent, Solicitor, or Adjuster.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Title 40, chapter 33, R.C.M. 1947 is amended by adding a new section numbered 40-3332 to read as follows:

Violation and penalty for operating without license.

40-3332. Any person, firm, association, or corporation who or which, in this state, acts as an insurance agent, solicitor, or adjuster, without having authority to do so by virtue of a license issued and in force pursuant to the provisions of this chapter shall, upon conviction, be guilty of a misdemeanor and fined five hundred dollars ($500) or imprisoned in the county jail for ninety (90) days, or both such fine and imprisonment.

Approved: March 2, 1967.

HeinOnline -- 1967 vol. II 769 1967

CHAPTER 257

An Act to Amend Section 16-3705, R.C.M. 1947, to Provide Additional Qualifications for Deputy Sheriffs in First, Second and Third Class Counties; Providing Tenure for Such Deputies; Providing Grounds for Discharge of Such Deputies; Providing for Appeal Procedure; Containing a Repealing Clause and an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 16-3705, R.C.M. 1947, is amended to read as follows:

Qualifications of deputy sheriffs, marshals and policemen.

"16-3705. **Qualifications of deputy sheriffs, marshals and policemen.** *(1)* No sheriff of a county, mayor of a city, or other persons authorized by law to appoint special deputies, marshals, or policemen in this state to preserve the public peace and prevent or quell public disturbance, shall hereafter appoint as such special deputies, marshals, or policemen any person who shall not have resided continuously in this state for a period of one year at least, and in the county where such appointment is made for the period of at least six *(6)* months prior to the date of said appointment; provided, that the provisions of this section shall not apply in cases of such officers summoning a posse forthwith to quell public disturbance or domestic violence."

Deputy sheriffs of first, second and third class counties—qualifications.

(2) No sheriff of a first, second and third class county shall employ as a deputy any individual who does not possess all the following qualifications:

(a) graduate of an accredited high school or the equivalent thereof;

(b) good moral character;

(c) never been convicted of a felony;

(d) has not within five (5) years immediately preceding his date of employment been affiliated in any manner with a subversive organization;

(e) been examined by a physician licensed to practice in the state of Montana within thirty (30) days immediately preceding his date of employment and has been pronounced in good physical condition.

Subsection (2) of this section shall not be applicable to any deputy sheriff of a first, second or third class county

HeinOnline -- 1967 vol. II 770 1967

whose term of employment commenced prior to the effective date of this act.

Probationary period.

(3) Any person whose term of employment as a deputy sheriff of a first, second or third class county commences subsequent to the effective date of this act shall serve a one-year probationary period and that during this one-year period the employment of any such deputy may be terminated by the sheriff with or without cause and without recourse to the sheriff under the terms of this act.

Training.

(4) It shall be the duty of the sheriff of a first, second or third class county to cause all deputies whose term of employment commenced subsequent to the effective date of this act to attend that academy provided for by Chapter 52, Title 75, R.C.M. 1947, except that the sheriff may accept reasonable delays in attendance at the academy as shown by the deputy's declared intention of attending. Failure to satisfactorily complete the course offered by said academy shall be deemed cause to terminate a deputy's employment.

Removal.

(5) Any deputy sheriff of a first, second or third class county now employed or that may hereafter be employed shall continue in service until relieved of his employment in the manner hereinafter provided and only for one or more of the following specified causes:

(a) conviction of a felony subsequent to the commencement of such employment;

(b) wilful disobedience of an order or orders given by the sheriff;

(c) drinking intoxicating liquor while in uniform or while on official duty or being intoxicated in a public place while in uniform or while on official duty;

(d) sleeping while on duty;

(e) incapacity materially affecting ability to perform official duties;

(f) gross inefficiency in the performance of official duties;

(g) participation in any political campaign as a candidate or the solicitation of political support for any candidate for public office.

Causes for discharge.

(6) When a sheriff of a first, second or third class county terminates the employment of a deputy he shall at

HeinOnline -- 1967 vol. II 771 1967

the time of termination cause to be served upon said deputy a statement in writing subscribed and sworn to by the sheriff setting forth the cause or causes for the discharge or termination of the deputy's employment.

Judicial review.

(7) Any deputy sheriff of a first, second or third class county whose employment is terminated from and after the effective date of this act, may within thirty (30) days from the date of the termination of his employment make application to the district court of the county wherein the deputy was employed for a hearing before the court, with or without jury, on the charges resulting in the deputy's termination of employment or discharge. In the event that a deputy prevails at the hearing he shall be entitled to be reinstated as a deputy sheriff at the same salary he received prior to his discharge or termination of employment and he shall also be entitled to any rights that might have accrued to his benefit prior to his discharge or termination of employment, including that salary which he would have received but for the termination.

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Effective immediately.

Section 3. This act shall be in full force and effect from and after the date of its passage and approval.

Approved: March 2, 1967.

CHAPTER 258

An Act Relating to Bonds of Irrigation Districts and Proceeds of Sale Thereof, Providing That Any Other Surplus Funds of the District May be Invested by the County Treasurer at the Discretion and Direction of the Board of Commissioners; Amending Section 89-1708, R.C.M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 89-1708, R.C.M. 1947, is amended to read as follows:

Delivery of bonds —disposition of proceeds.

"89-1708. **Delivery of bonds—disposition of proceeds.** In the event that bonds are sold for cash, they shall be delivered by the board of commissioners to the county treasurer of the county wherein the office of the district is located, who shall deliver them to the purchaser

HeinOnline -- 1967 vol. II 772 1967

upon receipt of the purchase price therefor, and after making a complete record of the same. Delivery of the bonds sold may be made by the county treasurer to the purchaser at any place or places within or without the state of Montana, and said county treasurer may receive the proceeds of the sale of said bonds at said place or places of delivery. The county treasurer shall thereupon place the proceeds of said sale to the credit of said district; and the same shall be paid out by the county treasurer only upon the written order of the board of commissioners, signed by the president and secretary under the seal of the district. Said proceeds shall be expended for the purpose or purposes for which said bonds were issued, and for no other. Provided, in case any portion of the funds realized from the sale of bonds are not needed immediately for the purpose for which said bonds were issued, the board of commissioners whenever, in its judgment, the same may be to the best interests of the district, shall have the power and authority to direct the investment of such funds, *and any other surplus funds of the district,* or any portion thereof, in interest-bearing securities of the United States, or of the state of Montana, or in interest-bearing certificates of deposit of national or state banks approved by the state superintendent of banks; provided, however, that in the event of such deposit said banks shall first furnish an indemnity bond to be approved by said board of commissioners and the state superintendent of banks. The county treasurer shall transfer to the credit of the district, and place to the credit of such fund or funds as the board of commissioners may direct, all interest received upon money or securities of the district entrusted to his care."

Approved: March 2, 1967.

CHAPTER 259

An Act to Amend Section 40-804, R.C.M. 1947, to Increase the Maximum Amount of Insurance That A Farm Mutual Insurer Shall Retain on a Single Risk From Ten Percent (10%) of the Admitted Assets of the Insurer or Five Thousand Dollars ($5,000), Whichever is Greater, to Ten Percent (10%) of the Admitted Assets of the Insurer or Fifteen Thousand Dollars ($15,000), Whichever Is Greater.

HeinOnline -- 1967 vol. II 773 1967

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 40-4804, R.C.M. 1947, is amended to read as follows:

Limit of risk.

"40-4804. **Limit of risk.** (1) The maximum amount of insurance which an insurer shall retain on a single risk, after deduction of applicable reinsurance, shall not exceed ten percent (10%) of the admitted assets of the insurer or *fifteen thousand dollars ($15,000),* whichever is the larger amount.

"Single risk."

(2) For the purposes of this section, a "single risk" as to insurance against fire and hazards other than windstorm, earthquake, or other catastrophic perils, includes all properties insured by the same insurer which are reasonably susceptible to loss or damage from the same fire or the same occurrence of such other hazard insured against."

Approved: March 2, 1967.

CHAPTER 260

An Act Providing for the Creation, Maintenance and Operation of Public Libraries in Counties and Cities and Repealing Sections 44-201, 44-202, 44-203, 44-204, 44-205, 44-206, 44-207, 44-208, 44-209, 44-210, 44-216, 44-217, 44-301, 44-302, 44-303 and 11-704, R.C.M. 1947; Amending Section 44-214, R.C.M., 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Free public libraries.

Section 1. It is the purpose of this act to encourage the establishment, adequate financing, and effective administration of free public libraries in this state to give the people of Montana the fullest opportunity to enrich and inform themselves through reading.

Establishment of public libraries —procedure.

Section 2. A public library may be established in any county or city in either of the following ways:

(1) The governing body of any county or city desiring to establish and maintain a public library may pass and enter upon its minutes a resolution to the effect that a free public library is established under the provision of Montana laws relating to public libraries.

HeinOnline -- 1967 vol. II 774 1967

(2) By petition signed by not less than ten per centum (10%) of the resident tax payers whose names appear upon the last completed assessment roll of the city or county being filed with the governing body requesting the establishment of a public library. The governing body of a city or county shall set a time of meeting at which they may by resolution establish a public library; the governing body shall give notice of the contemplated action in a newspaper of general circulation for two consecutive weeks giving therein the date and place of the meeting at which the contemplated action is proposed to be taken.

Special tax.

Section 3. The governing body of any city or county which has established a public library may levy in the same manner and at the same time as other taxes are levied a special tax not to exceed 3 mills on the dollar upon all property in such county, which may be levied by the governing body of such county, and not to exceed 4½ mills on the dollar upon all property in such city or town, which may be levied by the governing body of such city or town, in the amount necessary to maintain adequate public library service. The proceeds of such tax shall constitute a separate fund called the public library fund and shall not be used for any purpose except those of the public library. No money shall be paid out of the public library fund by the treasurer of the city or county except by order or warrant of the board of library trustees.

Bonds.

Bonds may be issued by the governing body in the manner prescribed by law for the erection and equipment of public library buildings and the purchase of land therefor.

Board of trustees —membership —officers.

Section 4. Upon the establishment of a public library under the provisions of this act, the mayor, with the advice and consent of the city council or city commissioners, shall appoint a board of trustees for the city library and the chairman of the board of county commissioners, with the advice and consent of said board, shall appoint a board of trustees for the county library. The library board shall consist of five trustees. Not more than one member of the governing body shall be, at any one time, a member of such board. Trustees shall serve without compensation but their actual and necessary expenses incurred in the performance of their official duties

HeinOnline -- 1967 vol. II 775 1967

may be paid from library funds. Trustees shall hold their office for five years from the date of appointment, and until their successors are appointed. Initially appointments shall be made for one, two, three, four and five year terms. Annually thereafter, there shall be appointed before the first day of July of each year in the same manner as the original appointments for a five year term, a trustee to take the place of the retiring trustee. Trustees shall serve no more than two full terms in succession. Following such appointments in July of each year, the trustees shall meet and elect a chairman and such other officers as they deem necessary, for one year terms. Vacancies in the board of trustees shall be filled for the unexpired term in the same manner as original appointments.

Control of expenditure of library fund—powers and duties of board.

Section 5. The library board of trustees shall have exclusive control of the expenditure of the public library fund, of construction or lease of library buildings, and of the operation and care of the library. The library board of trustees of every public library shall:

(1) Adopt bylaws, rules and regulations for its own transaction of business and for the government of the library, not inconsistent with law.

(2) Establish and locate a central public library and may establish branches thereof at such places as are deemed necessary.

(3) Have the power to contract, including the right to contract with regions, counties, cities, school districts, educational institutions, the state library and other libraries to give and receive library service, through the boards of such regions, counties and cities and the district school boards, and to pay out or receive funds to pay costs of such contracts.

(4) Have the power to acquire by purchase, devise, lease or otherwise, and to own and hold real and personal property, in the name of the city or county or both as the case may be, for the use and purposes of the library, and to sell, exchange or otherwise dispose of property real or personal when no longer required by the library, and to insure the real and personal property of the library.

(5) Pay necessary expenses of members of the library staff when on business of the library.

HeinOnline -- 1967 vol. II 776 1967

(6) Prepare an annual budget indicating what support and maintenance of the public library will be required from public funds for submission to the appropriate agency of the governing body. A separate budget request shall be submitted for new construction or for capital improvement of existing library property.

(7) Make an annual report to the governing body of the city or county on the condition and operation of the library, including a financial statement. The trustees shall also provide for the keeping of such records as shall be required by the Montana State Library in its request for an annual report from the public libraries and shall submit such an annual report to the state library.

(8) Have the power to accept gifts, grants and donations from whatever source and to expend the same for the specific purpose of the gift, grant, or donation. These gifts, grants and donations shall be kept separate from regular library funds and are not subject to reversion at the end of the fiscal year.

(9) Exercise such other powers, not inconsistent with law, necessary for the effective use and management of the library.

Chief librarian.

Section 6. The board of trustees of each library shall appoint and set the compensation of the chief librarian who shall serve as the secretary of the board and shall serve at the pleasure of the board. With the recommendation of the chief librarian the board shall employ and discharge such other persons as may be necessary in the administration of the affairs of the library, fix and pay their salaries and compensation and prescribe their duties.

Access to library —privileges.

Section 7. Every library established under the provisions of this act shall be free to the use of the inhabitants of the city or the county supporting such library. The board may exclude from the use of the library any and all persons who shall wilfully violate the rules of the library. The board may extend the privileges and use of the library to persons residing outside of the city or county upon such terms and conditions as it may prescribe by its regulations.

Cooperation.

Section 8. Library boards of trustees, boards of other educational institutions, library agencies, and local politi-

HeinOnline -- 1967 vol. II 777 1967

cal subdivisions are hereby empowered to cooperate, merge or combine in providing library service.

Exemptions from tax.

Section 9. After the establishment of a county free library as provided in this act, the governing body of any city or town which has an existing tax supported public library may notify the board of county commissioners that such city or town does not desire to be a part of the county library system. Such notification shall exempt the property in such city or town from liability for taxes for county library purposes.

Amending clause.

Section 10. Section 44-214, R.C.M. 1947, is amended to read as follows:

Board of trustees —appointment and term.

"44-214. **Board of trustees — appointment and term.** In a joint county or regional library district the board of five trustees shall be appointed by the joint action of all the county commissioners in the district. The first appointments or elections shall be for terms of one (1), two (2), three (3), four (4), and five (5) years respectively, and thereafter a trustee shall be appointed or elected annually to serve for five (5) years. Vacancies shall be filled for unexpired terms as soon as possible in the manner in which members of the board are regularly chosen. A trustee shall not receive a salary or other compensation for services as trustee, but necessary expenses actually incurred shall be paid from the library fund. A library trustee may be removed only by vote of the legislative body. *Trustees shall serve no more than two full terms in succession.*"

"City."

Section 11. Wherever the word "city" is used in this act it means city or town.

Repealing clause.

Section 12. Sections 44-201, 44-202, 44-203, 44-204, 44-205, 44-206, 44-207, 44-208, 44-209, 44-210, 44-216, 44-217, 44-301, 44-302, 44-303 and 11-704, R.C.M. 1947, are repealed. All public libraries heretofore established shall continue in existence, subject to the changes in administration provided herein.

Approved: March 2, 1967.

HeinOnline -- 1967 vol. II 778 1967

CHAPTER 261

An Act to Create a State Publications Library Distribution Center as a Division of the State Library and Amending Section 82-1916, R.C.M. 1947, Relating to Printing and Distribution of State Reports and Providing for Reimbursement for Additional Publications.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. **Definitions.** As used in this act: Definitions.

(1) "Print" includes all forms of printing and duplicating, regardless of format or purpose, with the exception of correspondence and interoffice memoranda. "Print."

(2) "State publication" includes any document, compilation, journal, law, resolution, bluebook, statute, code, register, pamphlet, list, book, proceedings, report, memorandum, hearing, legislative bill, leaflet, order, regulation, directory, periodical or magazine issued in print, or purchased for distribution, by the state, the legislature, constitutional officers, any state department, committee or other state agency supported wholly or in part by state funds. "State publication."

(3) "State agency" includes every state office, officer, department, division, bureau, board, commission and agency of the state, and, where applicable, all subdivisions of each. "State agency."

Section 2. There is hereby created as a division of the state library, and under the direction of the state librarian, a state publications library distribution center. The center shall promote the establishment of an orderly depository library system. To this end the state library commission shall make such rules and regulations necessary to carry out the provisions of this act. State publications library distribution center.

Section 3. Every state agency shall upon release deposit at least four copies of each of its state publications with the state library for record and depository purposes. Additional copies shall also be deposited, in quantities certified to the agencies by the state library as required to meet the needs of the depository library system and to provide inter-library loan service to those libraries without depository status. Additional copies of sale publications required by the state library shall be furnished only upon reimbursement to the state agency State publications —deposit with state library.

HeinOnline -- 1967 vol. II 779 1967

of the full cost of such sale publications, and the state library shall also reimburse any state agency for additional publications so required, where the quantity desired will necessitate additional printing or other expense to such agency.

Depository contracts.

Section 4. The center shall enter into depository contracts with any municipal or county free library, state college or state university library, the library of congress and the midwest inter-library center, and other state libraries. The requirements for eligibility to contract as a depository library shall be established by the state library commission upon recommendations of the state librarian. The standards shall include and take into consideration the type of library, ability to preserve such publications and to make them available for public use, and also such geographical locations as will make the publications conveniently accessible to residents in all areas of the state.

List of publications.

Section 5. The center shall publish and distribute regularly to contracting depository libraries and other libraries upon request a list of available state publications.

Requested publications.

Section 6. Upon request by the center, issuing state agencies shall furnish the center with a complete list of its current state publications and a copy of its mailing and/or exchange lists.

General distribution prohibited.

Section 7. The center shall not engage in general public distribution of either state publications or lists of publications.

Exempt from tax.

Section 8. This act shall not apply to nor affect the duties concerning publications distributed by, or officers of:

(1) The state law library;

(2) The secretary of state in connection with his duties under sections 12-317, 82-2202 (17) and 82-2203, R.C.M. 1947.

Amending clause.

Section 9. Section 82-1916, R.C.M. 1947 is amended to read as follows:

Printing and publications.

"82-1916. **Printing and publications.** The state purchasing agent shall have exclusive power, subject to the consent and approval of the governor, to contract for

HeinOnline -- 1967 vol. II 780 1967

all printing for any purpose used by the state of Montana in any state office, elective or appointive or by any state board, commission, bureau, state institution or department except the printing of the decisions of the supreme court as provided in section 82-2004, and shall supervise and attend to all public printing of the state of Montana in the manner in this act provided, and shall prevent duplication and unnecessary printing; all forms, blanks and documents printed for distribution to the departments of the state government or state institutions shall be serially numbered and indexed by the state purchasing agent and sample copies of each thereof permanently retained in his office; and the state purchasing agent shall from time to time furnish to the public general information as to the nature, description and official numbers of such reports as are available for public distribution.

Unless otherwise provided by law, the state purchasing agent in letting contracts as provided in this act, for the printing, binding and publishing of all laws, journals and reports of the various offices, departments, boards, commissions and institutions of the state, shall have the power to determine the quantity, quality, style and grade of all such printing, binding and publishing.

Provided, that all reports of any department or institution of the executive branch for any fiscal year required by law to be published, must be submitted to the governor before November 1st, of each year, for approval, correction or modification, and when by the governor approved, as corrected or modified, must by him be certified to the state purchasing agent for publication, provided, the governor may require all such reports or any number of them, to be published in one volume, such publication to be completed on or before the tenth day of January thereafter. Such reports shall be confined to a factual presentation to the governor and legislature of the activities of the department concerned and any recommendations of the department head and shall be 8½x11 inches in outside dimension and shall employ single color covers only.

And provided further, any such reports so published, in one volume may also be separately published in pamphlet form, in such number as may be directed by the governor.

HeinOnline -- 1967 vol. II 781 1967

Distribution.

The reports shall be distributed by the department responsible for making the report. Such distribution shall be within the discretion of the head of the department making the report, but the following distribution shall be mandatory:

To the governor—as many as he desires, but not less than two (2) copies of each report.

To the secretary of state—two (2) copies of each report.

To the legislative council—two (2) copies of each report.

To the librarian of the state historical library—*two (2)* copies of *each report.*

To the legislative assembly of the state of Montana—one (1) copy for each member."

To the state publications distribution center of the state library, at least four (4) copies of each report and whatever additional copies are requested by the state library.

Approved: March 2, 1967.

CHAPTER 262

An Act to Amend Section 53-626, Revised Codes of Montana, 1947, Relating to Exemptions of Fee of Motor Vehicles by Providing Exemptions to Licensed Dealers When Vehicle Is Unladen or Laden With Dealers Property Only.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That Section 53-626 of the Revised Codes of Montana, 1947, be amended to read as follows:

Exemptions of motor vehicle fee to licensed dealers.

"53-626. **Exemptions from act.** Motor vehicles operating exclusively for transportation of persons for hire within the limits of incorporated cities or towns and within fifteen (15) miles from such limits shall be exempt from the provisions of this act; provided that motor vehicles brought or driven into Montana by any nonresident migratory bona fide agricultural worker temporarily employed in agricultural work in this state where said motor vehicles are used exclusively for transportation of

HeinOnline -- 1967 vol. II 782 1967

agricultural workers shall likewise be exempt from the provisions of this act; *and further providing all vehicles lawfully displaying a licensed dealers plate as provided in Section 53-122, Revised Codes of Montana, 1947, shall be exempt from the provisions of this act when moving to or from a dealers place of business when unladen or laden with dealers property only.*"

Approved: March 2, 1967.

CHAPTER 263

An Act Amending Sections 16-4501, 16-4502, 16-4503, 16-4505, 16-4506, 16-4507, 16-4508, 16-4509, 16-4510, 16-4511, 16-4513, 16-4514, 16-4516, 16-4519, 16-4520, 16-4525, 16-4526, 16-4527, 16-4529, 16-4530, 16-4531, 16-4532, 16-4533, and 16-4534, of the Revised Codes of Montana, 1947, Pertaining to County Water Districts to Allow the Formation of County Water and/or Sewer Districts and Increasing Directors' Salaries to Twenty Dollars ($20) a Meeting; and Providing a Saving Clause and an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. The following sections of the Revised Codes of Montana, 1947, are amended to read as follows:

Organization of water and sewer districts, authorized.

"16-4501. **Organization of county water** *and/or sewer* **districts authorized.** A county water *and/or sewer* district may be organized and incorporated and managed as herein expressly provided and may exercise the powers herein expressly granted or necessarily implied."

Organization.

"16-4502. **Organization of districts.** The people of any county or counties, or portion of a *city or a* county, or city and county, or any combination of these political divisions, whether such portion includes unincorporated territory or not, in the state of Montana, may organize a county water *and/or sewer* district under the provisions of this act by proceeding as herein provided."

Petition—boundaries of district—publication.

"16-4503. **Petition — boundaries of district — publication.** A petition, which may consist of any number of separate instruments, shall be presented at a regular meeting of the board of commissioners of the county in which the proposed district is located, signed by the registered

HeinOnline -- 1967 vol. II 783 1967

voters within the boundaries of the proposed district, equal in number to at least ten per centum (10%) of the registered voters of the territory included in such proposed district. When the territory to be included in such proposed district lies in more than one county, a petition must be presented to the board of county commissioners of each county in which said territory lies and each of said petitions must be signed by at least ten per centum (10%) of the registered voters of the territory within said county to be included within such proposed district. Such petition shall set forth and describe the proposed boundaries of such district, and shall pray that the same be incorporated under the provisions of this act, and the text of such petition shall be published for ten (10) consecutive days in a daily newspaper or in two (2) issues of a weekly newspaper printed and published in every county in which said territory lies, together with a notice stating the time of the meeting at which same will be presented. The first publication shall be at least two (2) weeks before the time at which the petition is to be presented. When contained upon more than one (1) instrument, one (1) copy only of such petition need be published. No more than five of the names attached to said petition need appear in such publication of said petition and notice, but the number of signers shall be stated."

Proposition submitted—who may vote—certificate of secretary of state—district deemed incorporated—testimony—legal proceedings—election.

"16-4505. **Proposition submitted — who may vote — certificate of secretary of state — district deemed incorporated — must hear testimony — suit commenced within one year — election.** Upon such hearing of said petition, the board of commissioners shall determine whether or not said petition complies with the requirements of the provisions of this act, and for that purpose must hear all competent and relevant testimony offered in support of or in opposition thereto. Such determination shall be entered upon the minutes of said board of commissioners. A finding of the board of commissioners in favor of the genuineness and sufficiency of the petition and notice shall be final and conclusive against all persons except the state of Montana upon suit commenced by the attorney general. Any such suit must be commenced within one (1) year after the order of the board of commissioners declaring such district organized as herein provided, and not otherwise. Upon the final determination of the boundaries of the district the board of commissioners of each county in which said district lies shall

HeinOnline -- 1967 vol. II 784 1967

give notice of an election to be held in said proposed district for the purpose of determining whether or not the same shall be incorporated, the date of which election shall be not more than sixty (60) days from the date of the final hearing of such petition. Such notice shall describe the boundaries so established and shall state the proposed name of the proposed incorporation (which name shall contain the words "..... county water *and/or sewer* district"), and this notice shall be published for ten (10) consecutive days in a daily newspaper or in two (2) issues of a weekly newspaper printed and published in every county in which said district lies. The first publication shall be made at least two (2) weeks before the time at which the election is to be held. At such election the proposition to be submitted shall be: "Shall the proposition to organize ..... county water *and/or sewer* district under (naming the chapter containing this act) of the acts of the ..... session of the Montana legislature and amendments thereto be adopted?" And the election thereupon shall be conducted, the vote canvassed and the result declared in the same manner as provided by law in respect to general elections, so far as they may be applicable, except as in this act otherwise provided. No person shall be entitled to vote at any election under the provisions of this act unless such person possesses all the qualifications required of electors under the general election laws of the state, and is the owner of taxable real property located within the county in which he proposes to vote and situated within the boundaries of the proposed district. Within four (4) days after such election the vote shall be canvassed by the board of commissioners. If a majority of the votes cast at such election in each municipal corporation or part thereof and in the unincorporated territory of each county included in such proposed district shall be in favor of organizing such county district, said board of each such county shall be an order entered on its minutes declare the territory enclosed within the proposed boundaries duly organized as a county water *and/or sewer* district under the name theretofore designated, and the county clerk of each such county shall immediately cause to be filed with the secretary of state and shall cause to be recorded in the office of the county recorder of the county or counties in which such district is situated, each, a certificate stating that such a proposition was adopted.

HeinOnline -- 1967 vol. II 785 1967

Upon the receipt of such last-mentioned certificate the secretary of state shall, within ten (10) days, issue his certificate reciting that the district (naming it) has been duly incorporated according to the laws of the state of Montana. A copy of such certificate shall be transmitted to and filed with the county clerk of the county or counties in which such district is situated. From and after the date of such certificate, the district named therein shall be deemed incorporated, with all the rights, privileges and powers set forth in this act and necessarily incident thereto. In case less than a majority of the votes cast are in favor of said proposition the organization fails but without prejudice to renewing proceedings at any time in the future.

Election of directors—term of office.

"16-4506. **Election of directors—term of office.** At an election to be held within such district under the provisions of this act and the laws governing general elections not inconsistent herewith, the district thus organized shall proceed within ninety (90) days after its formation to the election of a board of directors consisting, if there are no municipalities within the boundaries of said district, of five (5) members. In all cases where the boundaries of such district include any municipality or municipalities, said board of directors, in addition to said five (5) directors to be elected as aforesaid, shall consist of one (1) additional director for each one of said municipalities within such district, each such additional director to be appointed by the mayor of the municipality for which said additional director is allowed; and if there be any unincorporated territory within said district, one additional director, to be appointed by the board of commissioners of each county containing such territory. Any director so elected or appointed shall be a qualified freeholder and a resident of said district. All directors, elected or appointed, shall hold office until the election and qualification or appointment and qualification of their successors. The term of office of directors elected under the provisions of this act shall be four (4) years from and after the date of their election; provided, that the directors first elected after the passage of this act shall hold office only until the election and qualification of their successors as hereinafter provided. The term of office of directors appointed by said mayor or mayors or by said board of commissioners shall be six (6) years from and after the date of appointment. Directors to be

HeinOnline -- 1967 vol. II 786 1967

first appointed under the provisions of this act shall be appointed within ninety (90) days after the formation of the district. The election of directors of such district shall be in every fourth year after its organization, on the fourth Tuesday in March, and shall be known as the "general district election." All other elections which may be held by authority of this act, or of the general laws, shall be known as special district election.

Nomination of officers.

"16-4507. **Nomination of officers.** (1) The mode of nomination and election of all elective officers of such district to be voted for at any district election and the mode of appointment of a director or directors by said mayor or mayors or by said board of commissioners shall be as follows and not otherwise.

(2) The name of a candidate shall be printed upon the ballot when a petition of nomination shall have been filed in his behalf in the manner and form and under the conditions hereinafter set forth.

Petition of nomination.

(3) The petition of nomination shall consist of not less than twenty-five (25) individual certificates, which shall read substantially as follows:

PETITION OF NOMINATION

Individual Certificate.

State of Montana)
) ss.
County of .....)

Prect. No. .....

I, the undersigned, certify that I do hereby join in a petition for the nomination of ....., whose residence is at ..... for the office of ..... of the ..... district to be voted for at the district election to be held in the ..... district on the ..... day of ....., 19 .....; and I further certify that I am a qualified elector and freeholder residing within said district, and am not at this time a signer of any other petition nominating any other candidate for the above named office; or, in case there are several places to be filled in the above named office, that I have not signed more petitions than there are places to be filled in the above named office; that my residence is at No. ..... street, ..., and that my occupation is .....

(Signed) .....

HeinOnline -- 1967 vol. II 787 1967

State of .....)
) ss.
County of .....)

....., being duly sworn, deposes and says that he is the person who signed the foregoing certificate and that the statements therein are true and correct.

(Signed) .....

Subscribed and sworn to before me this ..... day of ..... 19 .....

.....
Notary Public

The petition of nomination of which this certificate forms a part shall, if found insufficient, be returned to ....., at ....., Montana.

Forms.

(4) **Clerk to furnish forms.** It shall be the duty of the county clerk to furnish upon application a reasonable number of forms of individual certificates of the above character. If the district lies in more than one county, the county clerk whose county contains the largest percentage of the territory of said district shall fulfill this function.

Certificates.

(5) **Certificates.** Each certificate must be a separate paper. All certificates must be of uniform size as determined by the county clerk. Each certificate must contain the name of one signer thereto and no more. Each certificate shall contain the name of one candidate and no more. Each signer must be a qualified elector residing within said district, must not at the time of signing a certificate have his name signed to any other certificate for any other candidate for the same office, or, in case there are several places to be filled in the same office, signed to more certificates for candidates for that office than there are places to be filled in such office. In case an elector has signed two or more conflicting certificates, all such certificates shall be rejected. Each signer must verify his certificate and make oath that the same is true, before a notary public. Each certificate shall further contain the name and address of the person to whom the petition is to be returned in case said petition is found insufficient.

Presentation of petition.

(6) **Presentation of petition.** A petition of nomination, consisting of not less than twenty-five (25) individ-

HeinOnline -- 1967 vol. II 788 1967

ual certificates for any one candidate, may be presented to the county clerk not earlier than forty-five (45) days nor later than thirty (30) days before the election. The county clerk shall endorse thereon the date upon which the petition was presented to him. If the district lies in more than one county, such petition for nomination shall be presented to the county clerk whose county contains the largest percentage of the territory of said district and said county clerk shall fulfill all duties assigned to county clerks in elections under this act.

Examination of petition.

(7) **Examination of petition.** When a petition of nomination is presented for filing to the county clerk, he shall forthwith examine the same, and ascertain whether or not it conforms to the provisions of this section. If found not to conform thereto, he shall then and there in writing designate on said petition the defect or omission or reason why such petition can not be filed, and shall return the petition to the person named as the person to whom the same may be returned in accordance with this section. The petition may then be amended and again presented to the clerk as in the first instance. The clerk shall forthwith proceed to examine the petition as hereinbefore provided. If necessary, the board of commissioners shall provide extra help to enable the clerk to perform satisfactorily and promptly the duties imposed by this section.

Signer may withdraw name.

(8) **Signer may withdraw name.** Any signer to a petition of nomination and certificate may withdraw his name from the same by filing with the county clerk a verified revocation of his signature before the filing of his petition by the clerk, and not otherwise. He shall then be at liberty to sign a petition for another candidate for the same office.

Candidate may withdraw.

(9) **Candidate may withdraw.** Any person whose name has been presented under this section as a candidate may, not later than twenty-five (25) days before the day of election, cause his name to be withdrawn from nomination by filing with the county clerk a request therefor in writing, and no name so withdrawn shall be printed upon the ballot. If, upon such withdrawal, the number of candidates remaining does not exceed the number to be elected, then other nominations may be made by filing petitions therefor not later than twenty-five (25) days prior to such election.

HeinOnline -- 1967 vol. II 789 1967

Petition filed.

(10) **Petition filed.** If either the original or amended petition of nomination be found sufficiently signed as hereinbefore provided, the clerk shall file the same twenty-five (25) days before the date of the election. When a petition of nomination shall have been filed by the clerk it shall not be withdrawn or added to and no signatures shall be revoked thereafter.

Petitions preserved.

(11) **Petitions preserved.** The county clerk shall preserve in his office for a period of two years, all petitions of nomination and all certificates belonging thereto, filed under this section.

List of candidates.

(12) **List of candidates.** Immediately after such petitions are filed, the county clerk shall enter the names of the candidates in a list, with the offices to be filled, and shall not later than twenty (20) days before the election certify such list as being the list of candidates nominated as required by the provisions of this act, and the board of commissioners of each county in which the district lies shall cause said certified list of names and the offices to be filled, to be published in the proclamation calling the election at least ten (10) successive days before the election in at least one (1) but not more than three (3) newspapers of general circulation published in each county in which such district is located. Such proclamation shall conform in all respects to the general state law governing the conduct of general elections now or hereafter in force, applicable thereto, except as otherwise herein provided.

Ballots.

(13) **Ballots. Form.** The county clerk shall cause the ballots to be printed and bound and numbered as provided by said general state law, except as otherwise required in this act. The ballots shall contain the list of names and the respective offices as published in the proclamation and shall be in substantially the following form:

GENERAL (OR SPECIAL) DISTRICT ELECTION

.....District,

(Inserting date thereof.)

Instructions to Voters: To vote, stamp or write a cross (X) opposite the name of the candidate for whom you desire to vote. All marks otherwise made are forbidden. All distinguishing marks are forbidden and make the

HeinOnline -- 1967 vol. II 790 1967

ballot void. If you wrongly mark, tear or deface this ballot, return it to the inspector of election, and obtain another.

Printing

(14) **How printed.** All ballots printed shall be precisely on the same size, quality, tint of paper, kind of type, and color of ink, so that without the number it would be impossible to distinguish one ballot from another; and the names of all candidates printed upon the ballot shall be in type of the same size and style. A column may be provided on the right-hand side for questions to be voted upon at district election, as provided for under this act. The names of the candidates for each office shall be arranged in alphabetical order, and nothing on the ballot shall be indicative of the source of the candidacy or of the support of any candidate.

Omission of candidate.

(15) **No candidate omitted.** The name of no candidate who has been duly and regularly nominated, and who has not withdrawn his name as herein provided shall be omitted from the ballot.

Office.

(16) **Office.** The offices to be filled shall be arranged in the following order: "For director vote for (giving number)."

Voting squares.

(17) **Voting squares.** Half-inch square shall be provided at the right of the name of each candidate wherein to mark the cross.

Spaces below printed names.

(18) **Spaces below printed names.** Half-inch spaces shall be left below the printed names of candidates for each office, equal in number to the number to be voted for, wherein the voter may write the name of any person or persons for whom he may wish to vote.

Votes necessary to elect.

(19) **Votes necessary to elect.** In case there is but one person to be elected to an office, the candidate receiving a majority of the votes cast for all the candidates for that office, shall be declared elected; in case there are two or more persons to be elected to an office, as that of director, then those candidates equal in number to the number to be elected, who receive the highest number of votes for such office shall be declared elected.

Failure to qualify.

(20) **Failure to qualify.** If a person elected fails to qualify, the office shall be filled as if there were a vacancy in such office, as hereinafter provided.

HeinOnline -- 1967 vol. II 791 1967

Appointment by mayor.

(21) **Mode of appointment by mayor.** The mode of appointment of director or directors by a mayor, or by a board of commissioners, shall be by certificate of appointment signed by said mayor or mayors, or issued by said board of commissioners, and transmitted to the board of directors of said district.

Informality not to invalidate.

(22) **Informality not to invalidate.** No informality in conducting district elections shall invalidate the same, if they have been conducted by directors to fill a vacancy, or appointed by a mayor or by this act."

General law to govern.

"16-4508. **General law to govern.** The provisions of the law relating to the qualifications of electors, the manner of voting, the duties of election officers, the canvassing of returns, and all other particulars in respect to the management of general elections, so far as they may be applicable, shall govern all district elections, except as in this act otherwise provided; provided, however, that where a corporation owns taxable real property within the boundaries of the district, the president, vice-president or secretary of such corporation shall be entitled to cast a vote on behalf of the corporation; provided also that an elector owning taxable real property within the district need not reside within the district in order to vote, and provided that the board of commissioners shall canvass the returns of the first election and that thereafter, except as herein provided, the board of directors shall meet as a canvassing board and duly canvass the returns within four (4) days after any district election, including any district bond election. If the district lies in more than one county, the board of commissioners whose county contains the largest percentage of the territory of said district shall canvass the returns of the first election.

Officers subject to recall.

"16-4509. **Officers subject to recall.** Every incumbent of an elective office, whether elected by popular vote for a full term, or elected by the board of directors to fill a vacancy, or appointed by a mayor or by said board of commissioners for a full term, is subject to recall by the voters of any district organized under the provisions of this act, in accordance with the recall provisions of sections 11-3220 to 11-3227, Revised Codes of Montana, both inclusive, applicable to officers under the commissioner-manager plan."

HeinOnline -- 1967 vol. II 792 1967

"16-4510. **Organization of board.** The board of directors shall be the governing body of such district. It shall hold its first meeting on the sixth Monday after the first general election for the election of directors as herein provided; it shall choose one of its members president, and shall thereupon provide for the time and place of holding its meetings and the manner in which its special meetings may be called. All legislative sessions of the board of directors whether regular or special shall be open to the public. A majority of the board of directors shall constitute a quorum for the transaction of business. The board of directors shall establish rules for its proceedings." Organization of board.

"16-4511. **Ordinances—enacting clause—compensation.** The board of directors shall act only by ordinance or resolution. The ayes and noes shall be taken upon the passage of all ordinances or resolutions and entered upon the journal of the proceedings of the board of directors. No ordinance or resolution shall be passed or become effective without the affirmative votes of at least a majority of the total members of the board. The enacting clause of all ordinances passed by the board shall be in these words: "Be it ordained by the board of directors of..... district as follows:" All resolutions and ordinances shall be signed by the president of the board of directors and attested by the secretary. Each of the members of the board of directors shall receive for each attendance at the meetings of the board *twenty dollars ($20),* and shall receive no other compensation. No director, however, shall receive pay for more than three (3) meetings in any calendar month. Any vacancy in the board of directors, whether the vacant office is elective or appointive, shall be filled by the remaining directors." Ordinances—enacting clause—compensation.

"16-4513. **Informality not to invalidate.** No informality in any proceeding or informality in the conduct of any election, not substantially affecting adversely the legal rights of any citizen, shall be held to invalidate the incorporation of any district, and any proceeding wherein the validity of such incorporation is denied shall be commenced within three (3) months from the date of the certificate of incorporation, otherwise said incorporation and the legal existence of said district, and all proceedings in respect thereto, shall be held to be valid and in every respect legal and incontestable." Informality not to invalidate.

HeinOnline -- 1967 vol. II 793 1967

Powers of district.

"16-4514. **Powers of district.** Any district incorporated as herein provided shall have power:

(1) **To have perpetual succession;**

(2) **Sue and be sued.** To sue and be sued, except as otherwise provided herein or by law, in all actions and proceedings in all courts and tribunals of competent jurisdiction;

(3) **Adopt seal.** To adopt a seal and alter it at pleasure;

(4) **Hold property.** To take by grant, purchase, gift, devise, or lease; to hold, use, enjoy, and lease or dispose of real and personal property of every kind, within or without the district, necessary to the full exercise of its powers;

(5) **Acquire water works.** To construct, purchase, lease, or otherwise acquire, and to operate and maintain water-rights, water-works, *sanitary sewer-works, storm sewer-works,* canals, conduits, reservoirs, lands and rights useful or necessary to store, conserve, supply, produce, convey *or drain water or sewage for purposes beneficial to the district, such purposes to include but not be limited to, flood prevention, flood control, irrigation, drainage, municipal and industrial water supplies, domestic water supplies, wildlife, recreation, pollution abatement, livestock water supply and other similar purposes.*

(6) **Store water.** To store water for the benefit of the district; to conserve water for future use; to appropriate, acquire and conserve water and water-rights for the purposes of the district; to commence, maintain, intervene in and compromise, in the name of the district, and to assume the costs of any action or proceeding involving or affecting the ownership or use of waters, water-rights, *or sewer rights* within the district used or useful for any purpose of the district or a benefit to any land situated therein; to commence, maintain, intervene in, defend and compromise actions and proceedings to prevent interference with or diminution of the natural flow of any stream or natural subterranean supply of waters used or useful for any purpose of the district or a common benefit to the lands within the district or its inhabitants; and to commence, maintain and defend actions and proceeding to prevent any interference with the aforesaid waters

HeinOnline -- 1967 vol. II 794 1967

or rights as may endanger the inhabitants or lands of the district;

(7) **Lease water-works.** To lease of and from any person, firm, or public or private corporation with the privilege of purchase, or otherwise, existing water-rights, water-works, *sewer-works,* canals or reservoir systems; and to carry on and maintain the same; also to sell water, or the use thereof, for household or domestic use or other similar purposes; and whenever there is a surplus of water to sell or otherwise dispose of the same, to municipalities or towns or to consumers located within or without the boundaries of the district;

(8) *Accept assistance. To accept funds and property or other assistance, financial or others, from federal, state, and other public or private sources for the purposes of aiding the construction or maintenance of water or sewer development projects; and cooperate and contract with the state or federal government, or any department or agency thereof, in furnishing assurances and meeting local cooperation requirements of any project involving control, conservation and use of water.*

(9) **Borrow money.** To borrow money and incur indebtedness and to issue bonds or other evidence of such indebtedness; also to refund or retire any indebtedness or lien that may exist against the district or property thereof;

(10) **Levy taxes.** To cause taxes to be levied in the manner provided for herein for the purpose of paying any obligation of the district and to accomplish the purposes of this act in the manner herein provided;

(11) **Make contracts.** To make contracts, to employ labor and to do all acts necessary for the full exercise of the foregoing powers."

Duties of officers —depository of funds—bonds.

"16-4516. **Duties of officers of board—depositary of funds—officers' bonds.** The president shall sign all contracts on behalf of the district and perform such other duties as may be imposed by the board of directors. The secretary shall countersign all contracts on behalf of the district and perform such other duties as may be imposed by the board of directors. The general manager shall have full charge and control of the maintenance, operation and construction of *all works and systems of the* dis-

HeinOnline -- 1967 vol. II 795 1967

trict, with full power and authority to employ and discharge all employees and assistants at pleasure, prescribe their duties, and shall, subject to the approval of the board of directors, fix their compensation. The general manager shall perform such other duties as may be imposed upon him by the board of directors. The general manager shall report to the board of directors in accordance with such rules and regulations as they may adopt. The auditor shall be charged with the duty of installing and maintaining a system of auditing and accounting that shall completely and at all times show the financial condition of the district. He shall draw warrants to pay demands made against the district when such demands have been first approved by at least (3) members of the board of directors and by the general manager. The board of directors shall also designate a depositary or depositaries to have the custody of the funds of the district, all of which depositaries shall give security sufficient to secure the district against possible loss, and who shall pay the warrants drawn by the auditor for demands against the district under such rules as the directors may prescribe. The general manager, secretary and auditor, and all other employees or assistants of said district who may be required so to do by the board of directors, shall give bonds to the district conditioned for the faithful performance of their duties as the board of directors from time to time may provide."

Notice.

"16-4519. **Notice.** Such board of directors shall give notice of the holding of such election, which notice shall contain the resolution adopted by the board of directors of the district, boundaries of voting precincts, which shall include therein only the lands to be benefited, as stated in such resolution, the location of polling places, and the names of the officers selected to conduct the election, who shall consist of one judge, one inspector and two clerks in each precinct."

Publication.

"16-4520. **Publication.** Such notice shall be published for ten (10) consecutive days in a daily newspaper or in two (2) issues of a weekly newspaper published in each county wherein such district is located, which newspaper or newspapers shall be designated by the board of directors. Every qualified elector, owning taxable real property, within such voting precincts, but no others,

HeinOnline -- 1967 vol. II 796 1967

shall be entitled to vote at such election. All the expenses of holding such election shall be borne by the district."

"16-4525. *Rates.* The board of directors shall fix all water *and sewer* rates, and shall through the general manager collect *the sewer charges and* the charges for the sale and distribution of water to all users." Rates.

"16-4526. **Rate to pay operating expenses.** The board of directors in the furnishing of water, *sewer service, other services and facilities,* shall fix such rate, *fee, toll, rent or other charge* as will pay the operating expenses of the district, provide for repairs and depreciation of works owned or operated by it, pay the interest on any bonded debt, and, so far as possible, provide a sinking or other fund for the payment of the principal of such debt as it may become due." Rate to pay operating expenses.

"16-4527. **Commissioners to levy water taxes.** If, from any cause, the revenues of the district shall be inadequate to pay the interest or principal of any bonded debt as it becomes due or any other expenses or claims against the district, then the board of directors must, at least fifteen (15) days before the first day of the month in which the board of commissioners of the county, or city and county, or counties in which such district is located, are required by law to levy the amount of taxes required for county or city and county purposes, furnish to the board or boards of commissioners, and to the auditor or auditors, respectively, an estimate in writing of the amount of money required by the district for the payment of the principal of or interest on any bonded debt as it becomes due, and of the amount of money required to establish reasonable reserve funds for either of said purposes, together with a description of the lands benefited thereby, as stated by the board of directors in the resolution declaring the necessity to incur such bonded indebtedness, and also of the amount of money required by the district for any other purpose in this section set forth, and the board of commissioners of such county or city and county must annually, at the time and in the manner of levying other county or city and county taxes and until any such bonded debt is fully paid, levy upon the lands so benefited and cause to be collected, the proportionate share to be borne by the land located in their county of a tax sufficient for the payment thereof to be known as the ".....district bond tax"; and until all other ex- Commissioners to levy water taxes.

HeinOnline -- 1967 vol. II 797 1967

penses or claims are fully paid, levy upon all of the lands of the district and cause to be collected the proportionate share to be borne by the land located in their county of a tax sufficient for the payment thereof to be known as the ".....district water *and/or sewer* tax."

When the amount of money required for any purpose in this section enumerated has been determined, each lot or parcel of land to be assessed shall be assessed with that part of the amount of money required which its area bears to the total area of all of the lands to be assessed; or said assessment may, at the option of the board or boards of county commissioners, be based upon the taxable valuation, as stated in the last completed county assessment roll, of the lots or parcels of land, exclusive of improvements thereon, within said district, in which case, each lot or parcel of land to be assessed shall be assessed with that part of the amount of money required which its taxable valuation bears to the total taxable valuation of all of the lands to be assessed. PROVIDED HOWEVER that where the district lies in more than one county, the same method of assessment shall be used by each board of county commissioners.

Notice of intention to levy.

When the written estimate of the amount of money required has been delivered to the board of commissioners, said board shall give notice of its intention to levy and collect a tax sufficient for the payment thereof. Such notice shall be given:

(1) By posting notice thereof in five (5) public places within the county and within the boundaries of the lands upon which the tax is to be levied, and

(2) By publishing a copy of the notice for ten (10) consecutive days in a daily newspaper or in two (2) issues of a weekly newspaper published in each county wherein the district is located.

(3) By forwarding regular first class mail or registered mail, at least ten (10) days prior to the hearing provided for in paragraph (d) of this section, a copy of the notice addressed to the owners of taxable real property within the district as shown by the current assessment book on file in the office of the assessor of the county or counties the boundaries of which include taxable real property of the district.

HeinOnline -- 1967 vol. II 798 1967

The legislative assembly hereby finds, determines and declares that the giving of notice in accordance with paragraphs (1), (2) and (3) of this section is reasonably calculated to inform the owners of taxable real property located within the boundaries of the district of the hearing provided for in paragraph (d) of this section, and that the giving of any further notice is impracticable and is unnecessary to the assurance of due process of law to such property owners.

Notice to state.

Such notice shall state:

(a) The amount of money required;

(b) The method of assessment which the board or boards of commissioners intends to employ;

(c) The boundaries or description of the lands to be assessed, which said boundaries or description may be recited in full, or may be given by reference to any instrument on file or of record in the office of the clerk and recorder, treasurer or assessor of the county or counties in which the district or part thereof is situate; and

(d) The time when and the place where, the board or boards of commissioners will hear and pass upon all protests that may be made against the levy of the tax or any matter pertaining thereto, which said hearing shall be had no less than fifteen (15) days after the last publication of the notice.

At the time and place designated for said hearing any owner of property situated within the area to be assessed may appear and protest the levy of the tax or any matter pertaining thereto. All protests must be heard, considered and ruled upon by the board of commissioners. The board of commissioners may adjourn said hearing from time to time.

Payment of tax under protest.

Where such tax is, for any reason, deemed unlawful by the person whose property is taxed, whether he has protested the same at the hearing above provided or not, he may pay the tax or the installments thereof under protest in the manner provided by section 84-4502, Revised Codes of Montana, 1947, and thereupon, and within the time prescribed and in the manner provided by said section 84-4502, may commence an action to recover such tax, or installments, and in such action contest and litigate the payment of such tax on the same grounds and for the same

HeinOnline -- 1967 vol. II 799 1967

reasons that he has stated in his written protest, and for no other reasons and on no other grounds; provided, that all of the provisions of said section 84-4502 for the retention or refunding of taxes paid under protest shall apply to taxes paid under protect under this section."

Initiative.

"16-4529. **Initiative.** Ordinances may be passed by the electors of any district organized under the provisions of this act in accordance with the methods provided by the general laws of the state for direct legislation applicable to cities and towns.

Referendum.

"16-4530. **Referendum.** Ordinances may be disapproved and thereby vetoed by the electors of any such district by proceeding in accordance with the methods provided by the general laws of the state for protesting against legislation by cities and towns."

Adding to and consolidation of district.

"16-4531. **Adding to and consolidation of district.** Any portion of any county or any municipality, or both, may be added to any district organized under the provisions of this act, at any time, upon petition presented in the manner therein provided for the organization of such district, which petition may be granted by ordinance of the board of directors of such district. Such ordinance shall be submitted for adoption or rejection to the vote of the electors in such district and in the proposed addition, at a general or special election held as herein provided, within seventy (70) days after the adoption of such ordinance. If such ordinance is approved, the president and secretary of the board of directors shall certify that fact to the secretary of state and to the county recorder of the county in which such district is located. Upon the receipt of such last mentioned certificate the secretary of state shall, within ten (10) days, issue his certificate, reciting the passage of said ordinance and the addition of said territory to said district. A copy of such certificate shall be transmitted to and filed with the country clerk of the county in which such district is situated. From and after the date of such certificate the territory named therein shall be deemed added to and form a part of said district, with all the rights, privileges and powers set forth in this act and necessarily incident thereto.

Two or more districts organized under the provisions of this act may consolidate, at any time, upon petitions submitted to the board of directors of each such district.

HeinOnline -- 1967 vol. II 800 1967

Such petitions shall be in the form required for petitions for the organization of districts. Each such petition shall be signed by not less than ten per cent (10%) of the registered voters of the territory included within said district. Said petitions may be granted by ordinance of the board of directors of each of said districts. Such ordinances shall be submitted for adoption or rejection to the vote of the electors in such districts at general or special elections held as herein provided within seventy (70) days after the adoption of such ordinances. If such ordinances are approved, the president and secretary of the boards of directors of each of said districts shall certify that fact to the secretary of state and to the county clerk of the county or counties in which such districts are located. Upon the receipt of said certificate the secretary of state shall, within ten (10) days, issue his certificate, reciting the passage of said ordinances and the consolidation of said districts. A copy of such certificate shall be transmitted to and filed with the county clerk of each county in which such consolidated district is situated. From and after the date of such certificate, the said districts shall be deemed to be consolidated and shall consist of one district with all the rights, privileges and powers set forth in this act and necessarily incident thereto. The number and manner of selection and election of directors of the consolidated district shall be the same as the number and manner of selection and election of directors of newly organized districts."

"16-4532. **Definitions.** Nothing in this act shall be so construed as repealing or in any wise modifying the provisions of any other act relating to water *or sewers* or the supply of water to, or the acquisition thereof by counties or municipalities within this state. The term "municipality," as used in this act, shall include a consolidated city and county, city or town, and shall be understood and so construed as to include, and is hereby declared to include, all corporations heretofore organized and now existing and those hereafter organized for municipal purposes within such districts. The term "county" shall mean one or more counties and shall be understood and construed to include "city and county." In municipalities in which there is no mayor the duty imposed upon said officer by the provisions of this act shall be performed by the president of the board of trustees or other chief executive of the municipality. The word "district"

Definitions.

"Municipality."

"County."

"District."

HeinOnline -- 1967 vol. II 801 1967

shall apply, unless otherwise expressed or used, to a district formed under the provisions of this act, and the word "board" and the words "boards of directors" shall apply to the board of directors of such district."

"Board."

Exclusion of territory—petition—contents—duties of secretary—hearing—order excluding lands.

"16-4533. **Exclusion of territory—petition—contents—duties of secretary—hearing—order excluding lands.** Any territory, included within any district formed under the provisions of this act, and not benefited in any manner by such district, or its continued inclusion therein, may be excluded therefrom by order of the board of directors of such district upon the verified petition of the owner or owners in fee of lands whose assessed value, with improvements, is in excess of one-half of the assessed value of all the lands, with improvements, held in private ownership in such territory. Said petition shall describe the territory sought to be excluded and shall set forth that such territory is not benefited in any manner by said district or its continued inclusion therein, and shall pray that such territory may be excluded and taken from said district. Such petition shall be filed with the secretary of the district and shall be accompanied by a deposit with such secretary of the sum of one hundred dollars ($100.00), to meet the expenses of advertising and other costs incident to the proceedings for the exclusion of such territory, including the cost of recording a certified copy of the order hereinafter provided for, any unconsumed balance to be returned to the petitioner. Upon the filing of such petition with the secretary of the district he shall call a meeting of the board of directors of the district at a time not less than twenty-five (25) days nor more than fifty (50) days after the filing of the petition and cause a notice of the filing of such petition to be published for ten (10) consecutive days in a daily newspaper or in two (2) issues of a weekly newspaper within said district, if there be one, and if not, in some newspaper of general circulation published in each county in which the district is situated. Such notice shall also state the date of the filing of such petition and that the same will come on for hearing before the board of directors of the district and shall state the time of the hearing and the place thereof, which shall be the regular meeting place of the board of directors of the district; provided, that the board may adjourn the hearing to a more convenient meeting place within the district. Any landowner or taxpayer within the district shall have the right to appear at said hearing,

HeinOnline -- 1967 vol. II 802 1967

either in behalf of or in opposition to the granting of said petition. Said petition shall come on for hearing before the board of directors of the district at the time and place specified in the notice of hearing. If upon such hearing the board of directors determines that it is for the best interests of the district that the lands mentioned in the petition, or some portion thereof, be excluded from the district, or if it appears that such lands, or some portion thereof, will not be benefited by their continued inclusion in the district, then the board of directors shall make an order that such lands, or such portion thereof, be excluded from the district, such order to describe specifically the lands so excluded. From the time of the making of such order the lands so excluded shall be deemed to be no longer included in the district, but such order of exclusion shall not be taken to invalidate in any manner any taxes or assessments theretofore levied or assessed against the lands so excluded. A copy of such order of exclusion, certified to by the secretary of the district, shall be recorded in the office of the county recorder of the county or counties in which the district is situated and the record of such certified copy shall be deemed prima facie evidence of the exclusion from the district of the lands purporting to be excluded thereby."

Directors may institute proceedings for exclusion—hearing—referendum.

"16-4534. **Directors may institute proceedings for exclusion—hearing—referendum.** The board of directors of any district formed under the provisions of this act may itself initiate the proceedings for the exclusion from the district of any land or lands which it may not be for the best interests of the district to be included, or which may not be benefited in any manner by their continued inclusion therein. Such proceedings shall be initiated by the board of directors by the passage of a resolution requiring all persons interested to appear and show cause before the board of directors, at a time and place specified, why such lands, describing them, should not be excluded from the district and fixing a time and place for such hearing and directing the secretary of the district to give notice of the passage of such resolution and of such hearing. Upon the passage of such resolution the secretary of the district shall give notice thereof and of the time and place of such hearing in the manner hereinbefore prescribed for notice of hearing upon petition by a landowner or landowners, and thereafter all proceedings shall be had in the manner and with the effect herein

HeinOnline -- 1967 vol. II 803 1967

provided for proceedings upon a petition by a landowner or landowners. The time of hearing fixed by the board of directors by its resolution hereinbefore mentioned shall be not less than twenty-five (25) days nor more than fifty (50) days after the passage of such resolution and the place of hearing so fixed shall be a convenient place within the district; provided that the final action of the board of directors under this section shall be subject to the referendum by the electors of the district according to section 30 (16-4530) of this act."

Severability clause.

Section 2. If any section, paragraph, sentence, clause or provision of this act shall for any reason be held invalid or unenforceable, the invalidity or unenforceability thereof shall not affect any of the remaining sections, paragraphs, sentences, clauses or provisions of this act.

Effective immediately.

Section 3. This act shall be in full force and effect on and after the date of passage and approval.

Approved: March 2, 1967.

CHAPTER 264

An Act Providing for the Payment of Mileage to School Trustees; Amending Section 75-1622, R.C.M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 75-1622, R.C.M. 1947, is amended to read as follows:

Meetings of school trustees —mileage.

"75-1622. **Meetings.** The board shall hold, in districts of the first class, at least one and not more than five meetings each month for the transaction of its business; and in all districts at least four meetings each year shall be held, to wit: On the third Saturdays of April, July, October and January, at such places and hours as shall be fixed by the board. A special meeting of the board may be held upon the call of the chairman or any two members of the board; at least forty-eight hours' written notice shall be given to each member of the board of any special meetings, and no business transacted by the board shall be valid unless transacted at a regular or special meeting thereof. *All school trustees regularly qualified for office in first, second, and third class districts, includ-*

HeinOnline -- 1967 vol. II 804 1967

ing the extra high school trustees provided for in section 75-4601, R.C.M. 1947, who live three (3) miles from the meeting place shall be entitled to mileage at the rate of eight cents (8¢) per mile for travel from their homes to the meeting place and return, for attendance at all regular and special meetings of the board of trustees held according to law. The payment for mileage may accumulate until the end of the fiscal year at the discretion of the trustee."

Approved: March 2, 1967.

CHAPTER 265

An Act Amending Section 4-108, of the Revised Codes of Montana, 1947, Relating to Maximum Salaries of the State Liquor Administrator and Other Employees of the Montana Liquor Control Board, and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 4-108, of the Revised Codes of Montana, 1947, is hereby amended to read as follows: Amending clause.

"4-108. (2815.63) **Salaries of state liquor administrator and other employees—duties of assistant administrator.** The board shall fix the following salaries of its employees at such sums as it deems advisable, to-wit: The salary of the state liquor administrator in a sum not exceeding *eleven thousand five hundred dollars ($11,500)* per year; the salary of the assistant state liquor administrator in a sum not exceeding *ten thousand dollars ($10,000)* per annum*; the salary of the supervisor of the accounting department not exceeding nine thousand dollars ($9,000) per annum;* the salaries of the supervisors of the data processing department and the license department in a sum not exceeding *seventy-five hundred dollars ($7,500)* per annum each; the salary of the supervisor of the warehouse department in a sum not exceeding *seven thousand dollars ($7,000)* per annum; the salaries of the purchasing agent, the traffic manager, the assistant supervisor of the data processing department, the assistant supervisor of the accounting department, store auditors and field inspectors in a sum not exceeding *six thousand six hundred dollars ($6,600)* per annum each; the salary of a vendor of a Salary of state liquor administrator and other employees—duties of assistant administrator.

HeinOnline -- 1967 vol. II 805 1967

"Class A" store in a sum not exceeding *six thousand six hundred dollars ($6,600)* per annum; the salary of one (1) assistant vendor of a "Class A" store in a sum not exceeding *five thousand seven hundred fifty dollars ($5,750)* per annum; the salary of any other employee of a "Class A" store in a sum not exceeding *five thousand four hundred dollars ($5,400)* per annum; the salary of a vendor of a "Class B" store in a sum not exceeding *five thousand five hundred dollars ($5,500)* per annum; the salary of an assistant vendor and any other employee of a "Class B" store in a sum not exceeding *four thousand five hundred thirty-five dollars ($4,535)* per annum; the salary or compensation of a vendor of a "Class C" store in a sum not exceeding *four thousand nine hundred dollars ($4,900)* per annum; the salary of an assistant vendor and any other employee of a "Class C" store in a sum not exceeding the sum of *four thousand dollars ($4,000)* per annum; the salary of any other employee of the board in the sum not exceeding *six thousand six hundred dollars ($6,600)* per year. The volume of the individual store sales shall be taken into consideration in fixing the salary of store vendors, assistant vendors and employees.

The assistant state liquor administrator shall exercise such powers and perform such duties as the board may prescribe."

Effective immediately.

Section 2. This act shall be in full force and effect from and after the date of passage and approval.

Approved: March 2, 1967.

CHAPTER 266

An Act Amending Section 11-1832, R.C.M. 1947, Relating to Minimum Wages of Policemen of Cities of the First and Second Class, to Require That Such Wages Be Four Hundred Dollars ($400).

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 11-1832, R.C.M. 1947, is amended to read as follows:

Minimum police wage in first and second class counties.

"11-1832. **Minimum wage of police in first and second class cities.** That from and after July 1, *1967,* there shall be paid to each duly confirmed member of the police

HeinOnline -- 1967 vol. II 806 1967

department of cities of the first and second class of the state of Montana, a minimum wage for a daily service of eight (8) consecutive hours' work, of at least *four hundred dollars ($400)* minimum per month for the first year of service, and thereafter of at least *four hundred dollars ($400)* minimum per month plus one per cent (1%) of said minimum base monthly salary *four hundred dollars ($400)* for each additional year service up to and including the twentieth year of such additional service."

Additional salary.

Section 2. Added salary for years of service will be based on the base monthly salary as established in this act and not on the actual current salary.

Approved: March 2, 1967.

CHAPTER 267

An Act to Amend Section 11-1932, Revised Codes of Montana, 1947, to Increase the Minimum Compensation of Firemen in Cities of the First and Second Class.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 11-1932, R.C.M. 1947, is amended to read as follows:

Minimum fireman wages in first and second class cities.

"11-1932. **Minimum wages of firemen in cities of first and second class.** From and after July 1, *1967,* there shall be paid to each duly appointed and confirmed member of the fire department of cities or towns of the first or second class of the state of Montana, a minimum wage for a daily service of eight (8) consecutive hours work of at least *four hundred dollars ($400.00)* per month for the first year of service, and thereafter of at least *four hundred dollars ($400.00)* minimum per month plus one per cent (1%) of said minimum base monthly salary *four hundred dollars ($400.00)* for each additional year of service up to and including the twentieth year of such additional service."

Additional salaries.

Section 2. Added salary for years of service will be based on the base monthly salary as established in this act and not on the actual current salary.

Approved: March 2, 1967.

HeinOnline -- 1967 vol. II 807 1967

CHAPTER 268

An Act to Provide for Post-Enemy-Attack Continuity in Government.

Be it enacted by the Legislative Assembly of the State of Montana:

"The Post-Enemy-Attack Continuity in Government Act."

Section 1. This act may be cited as "The Post-Enemy-Attack Continuity in Government Act" and is in implementation of section 46, article V of the Montana constitution.

Succession to governorship.

Section 2. **Succession to Governorship.** Following an enemy attack, the line of succession to the office of governor, as set forth in section 16, article VII of the constitution of Montana, shall be extended to members of the legislative assembly in the order of their seniority. For purposes of this section the term "seniority" means the member who has served in the legislature for the longest continuous period of time up to and including his current term. If two (2) or more members of the legislative assembly have equal seniority, the line of succession among them shall be from eldest to youngest in age.

Succession to boards of county commissioners.

Section 3. **Succession to Boards of County Commissioners.** In case of a vacancy on any board of county commissioners occurring during or following an enemy attack if the judge or judges of the judicial district in which the vacancy occurs be not available to make the appointment as provided in section 4, article XVI of the Montana constitution then the district judges of all other judicial districts shall be authorized to make such appointment, provided, however, that of the available judges in the state of Montana that judge who holds court in the county seat closest to the county seat where the vacancy occurs shall be responsible for making the appointment to fill the vacancy.

Succession in city or town governing bodies.

Section 4. **Succession in City or Town Governing Bodies.** In the event that no members of a city or town council or commission are available following an enemy attack then the Board of County Commissioners of the county in which such city or town is located shall appoint successors to act in place of the unavailable members.

Succession for city or town executives.

Section 5. **Succession for City or Town Executives.** In the event that the executive head of any city or town is unavailable, following an enemy attack, to exercise the

HeinOnline -- 1967 vol. II 808 1967

powers and discharge the duties of his office, then those members of the city or town council or commission available shall, by majority vote, choose a successor to act as the executive head of such city or town.

Quorum.

Section 6. **Provision for Quorum.** If, following an enemy attack, the legislature or any state or local government council, board, or commission is unable to assemble a quorum as defined by the constitution of Montana or by statute then those legislators or members of the council, board, or commission available for duty shall constitute the legislature or board, or commission; and aforesaid quorum requirements shall be suspended; and, where the affirmative vote of a specified proportion of members for the approval of any action would otherwise be required, the same proportion of those voting thereon shall be sufficient.

Moving seat of state government.

Section 7. **Moving Seat of State Government.** Following an enemy attack in which the seat of state government at Helena has been rendered unsuitable for use in that capacity the seat of state government may be moved to an alternate location within the boundaries of the State of Montana by proclamation of the governor. He shall consider other Montana cities in order of their population in the last federal census, giving consideration to available communications, office space and such other factors as may seem to him pertinent. Such move of the seat of government shall be effective until it is again moved by proclamation of the governor or action by the legislature.

Moving seat of local government.

Section 8. **Moving Seat of Local Government.** Following an enemy attack in which the seat of local government of any political subdivision of the state shall have been rendered unsuitable for use in that capacity, in the opinion of the governing body of that political subdivision, such seat of government may be moved by said governing body to such other location as they deem most suitable.

When act inoperative.

Section 9. The provisions of this act shall become inoperative at the time of the convening of the first legislative assembly following the emergency which originally made such provisions operative.

Approved: March 2, 1967.

HeinOnline -- 1967 vol. II 809 1967

CHAPTER 269

An Act to Provide for Control and Regulation of the Affairs of Domestic and Foreign Insurance Holding Companies; Prescribe Rules and Regulations Governing Acquisition and Disposal of Stock of Insurance Holding Companies; Prescribe Rules and Regulations Regarding Acquisition and Disposal of Stock of Insurance Companies by Insurance Holding Companies; Exempting Certain Acquisitions and Disposals of Stock From the Provisions of the Act; Subjecting Domestic Insurers Coming Within the Purview of the Act to Examination by the Insurance Department; Providing for Application to Be Made to the Insurance Commissioner to Approve Certain Transactions; Providing for Judicial Review of Orders; Defining Terms; and Providing Penalties.

Be it enacted by the Legislative Assembly of the State of Montana:

"Montana Insurance Holding Act."

Section 1. This act may be cited as the "Montana Insurance Holding Act."

Section 2. **General Definitions.** Unless context requires otherwise, in this act:

"Commissioner."

(1) "Commissioner" means commissioner of insurance of the state of Montana.

"Department."

(2) "Department" means the department of insurance of the state of Montana.

"Company."

(3) "Company" means all corporations, joint stock companies, trusts, associations, partnerships, or individuals engaged in the business of insurance as principals.

"Insurance holding company."

(4) "Insurance Holding Company" means any company:

(a) which directly or indirectly owns, controls or holds with power to vote fifteen percent (15%) or more of the voting stock of one or more insurance companies; or

(b) which controls the election of the directors of one or more insurance companies; or

(c) for the benefit of whose stockholders or members, fifteen percent (15%) or more of the voting stock of one or more insurance companies is held by one or more

HeinOnline -- 1967 vol. II 810 1967

trustees; and for the purposes of this section, any successor to any company from the date as of which such predecessor company became an insurance holding company.

(5) "Affiliate" means: "Affiliate."

(a) any company, fifteen percent (15%) or more of whose voting stock is owned or controlled by an insurance holding company; or

(b) any company, the election of whose directors is controlled in any manner by an insurance holding company; or

(c) any company, fifteen percent (15%) or more of whose vote or voting stock is held by trustees for the benefit of the stockholders or members of an insurance holding company.

(6) "Successor" means any company which acquired directly or indirectly from an insurance holding company stock of any insurance company when and if the relationship between such company and insurance holding company is such that the transaction effects no substantial change in the control of the insurance company or beneficial ownership of the stock thereof. The commissioner may, by regulation, further define the word "successor" to the extent necessary to prevent evasion of the purposes of this section. "Successor."

(7) "Domestic" insurer means one formed under the laws of this state. "Domestic" insurer.

(8) "Foreign" insurer means one formed under the laws of any jurisdiction other than this state. "Foreign" insurer.

Section 3. Except with prior written approval of the commissioner: Written approval required—when.

(1) No domestic insurance company shall directly or indirectly transfer fifteen percent (15%) of its voting stock to a foreign or domestic insurance holding company.

(2) No domestic insurance holding company shall transfer, directly or indirectly, ownership or control of voting stock in any other company to a foreign insurance holding company if, after such acquisition, such foreign insurance holding company will own or control, directly or indirectly, fifteen percent (15%) or more of the voting stock of the company whose shares it acquires.

HeinOnline -- 1967 vol. II 811 1967

(3) No domestic insurance holding company shall, directly or indirectly, transfer more than fifteen percent (15%) of its authorized and outstanding voting stock to any other corporation, association, partnership or individual.

Exemptions.

Section 4. The prohibitions of section 3 shall not apply to:

(1) Stock held in a fiduciary capacity except where such stock is held for the benefit of the shareholders of an insurance company or insurance holding company;

(2) Stock accepted in good faith as collateral security by a company other than an insurance holding company for advances made or stock acquired in good faith; provided, such stock shall be sold or otherwise disposed of within two (2) years from the date of its acquisition unless its further holding is approved by the commissioner;

(3) Stock acquired as a consequence of a merger or consolidation of one insurance company with another, or the conversion of one insurance company into another, or the sale of assets of one insurance company to another where the stock acquired does not represent a larger percentage interest in the stock of the insuranc company in which acquired than was held prior to such consolidation, merger, conversion, or sale by the insurance holding company in the insurance company consolidated, merged, or converted, or whose assets were the subject of the sale; or

(4) Any stock acquired in connection with the underwriting of the issue of such stock and which is held only for such period of time as will permit the sale thereof on a reasonable basis as regulated by the Securities Act of Montana.

Examination by state.

Section 5. Every domestic insurance company, fifteen percent (15%) of whose stock is held by a domestic or foreign insurance holding company and every domestic insurance holding company as defined by this act, shall be subject to examination by the insurance department of the state of Montana as often as the commissioner deems advisable, but not less frequently than once each year; and shall submit to the commissioner an annual report on forms prescribed by the commissioner.

HeinOnline -- 1967 vol. II 812 1967

Petition for stock transfer.

Section 6. Any company or insurance holding company desiring to acquire or transfer stock as regulated by section 3 shall submit a petition, in writing, to the commissioner seeking approval of such acquisition or transfer, on such forms as the commissioner may from time to time prescribe and with such information as the commissioner by rule or regulation shall require. Upon receipt of a petition, the commissioner shall grant approval or grant a hearing on the request. If, after such hearing it is decided by the commissioner that such transfer or acquisition is not in the best interest of the stockholders, or policy holders, or that competition among insurance companies will be unnecessarily affected, he shall deny such petition. Upon denial of any petition, the courts of the state of Montana, first judicial district, in and for Lewis and Clark County, shall have jurisdiction to hear an appeal from said denial. A trial *de novo* shall be granted upon such an appeal.

Violation and penalty.

Section 7. Any company which fails to comply with the provisions of this act shall be fined by the commissioner in an amount not to exceed one thousand dollars ($1,000.00), and the certificate of authority of any domestic insurance company which fails to comply with the provisions of this act shall be revoked by the commissioner, after a hearing held for that purpose.

False information —violation and penalty.

Section 8. Any individual who knowingly causes, directly or indirectly, false information to be filed with the commissioner contained in any report required under the provisions of this act, shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine not to exceed five hundred dollars ($500.00), or by imprisonment in the county jail for not more than six (6) months, or both.

Approved: March 2, 1967.

CHAPTER 270

An Act to Amend Section 92-418, Revised Codes of Montana, 1947, as Amended by Chapter 162, Section 6, Laws of 1961, Relating to the Definition of "Injury" or "Injured" Under the Workmen's Compensation Act of Montana, Repealing All Acts and Parts of Acts in Conflict Herewith; and Providing an Effective Date.

HeinOnline -- 1967 vol. II 813 1967

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 92-418 of the Revised Codes of Montana, 1947, as amended by chapter 162, Laws of 1961, section 6, be amended to read as follows:

Definition of injury.

"92-418. (2870) **Injury or injured defined.** "Injury" or "injured" means a tangible happening of a traumatic nature from an unexpected cause, *or unusual strain,* resulting in either external or internal physical harm, and such physical condition as a result therefrom and excluding disease not traceable to injury."

Repealing clause.

Section 2. All acts or parts of acts in conflict herewith are hereby repealed.

Effective immediately.

Section 3. This act shall take effect from date of its passage and approval.

Approved: March 2, 1967.

CHAPTER 271

An Act to Amend Sections 75-1810 and 75-1813, R.C.M. 1947, to Provide that Bonded Indebtedness is Assumed by the New School District When School District Boundaries are Changed Through Consolidation or Annexation.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 75-1810, R.C.M. 1947, is amended to read as follows:

Indebtedness against original territory upon creation of new school district out of other districts—consolidation.

"75-1810. **Indebtedness to remain against original territory upon creation of new school district** *out of other districts—indebtedness to be assumed by new district when districts are consolidated.* When a new school district shall be formed as provided in *section* 75-1805, the bonded indebtedness of any school district or portion of school district affected by such change of boundaries, shall remain the indebtedness against the original territory against which such bonds were issued and shall be paid for out of levies made against said original territory. *When a new school district shall be formed as provided in section 75-1813, the bonded indebtedness of any school district affected by such consolidation or annexation shall*

HeinOnline -- 1967 vol. II 814 1967

became the indebtedness and obligation of the consolidated district and be paid by levies imposed upon the property therein."

Section 2. Section 75-1813, R.C.M. 1947, is amended to read as follows: Amending clause.

"75-1813. **Consolidated districts—procedure in event of consolidation—annexation—bonded debts.** Any two or more school districts lying in one county may be consolidated, either by the formation of a district by consolidation, or by the annexation of one or more districts to an existing district, as hereinafter provided. Consolidated districts—procedure—annexation—bonded debts.

When severally the boards of trustees of two (2) or more school districts, in regular meeting called for the publicly announced purpose of considering plans for consolidation of said two (2) or more districts and by majority vote of each board of trustees acting separately shall ask for district consolidation of each and all such petitioning boards, the county superintendent of schools having jurisdiction of such districts, within not less than twenty (20) nor more than thirty (30) days, shall cause notice of election to be given by the clerk in each district seeking election on such proposed consolidation of districts. Such notice is to be posted in three (3) public places in each such district and published in a newspaper published in the county and having general circulation in the school districts, giving the time and place or places specified in each notice to vote on the question of consolidation.

Consolidation of any two (2) or more school districts lying in one county may also be effected by the people of the districts concerned whenever a petition shall be directed to and received by the county superintendent of schools, and shall in each such district seeking consolidation be signed by not fewer than twenty percent (20%) of the qualified electors in such district. The county superintendent shall within not less than twenty (20), nor more than thirty (30) days, cause notice to be given as provided in the next preceding paragraph.

The votes at such election shall be by ballot, which shall read "For consolidation" or "Against consolidation." *At such election those qualified electors whose names appear upon the last preceding completed assessment roll* Election—ballot.

HeinOnline -- 1967 vol. II 815 1967

shall be furnished ballots printed upon white paper and all other qualified electors shall be furnished ballots printed upon paper distinctly yellow in color. Separate ballot boxes shall be used for the receipt of voted ballots so that the white ballots will be segregated from the yellow ballots. The judge or judges at such election shall, within ten (10) days thereafter, certify the result of the vote to the county superintendent of the county in which the district lies.

If *both* the majority of the *total* votes cast in each district holding such election be for consolidation *and the majority of the votes cast by those qualified electors whose names appear upon the last preceding completed assessment roll in each district holding such election be for consolidation, provided that at least a percentage of such electors in each district, equal to the percentage required in Section 75-3914, R.C.M. 1947, for approval of a bond issue, have voted,* it carries, and the superintendent, within ten (10) days thereafter, shall make a proper order to give effect to such vote, and shall thereafter transmit a copy thereof to the county clerk and recorder and to the clerk of each district affected. If the order be for the formation of a new district, it shall specify the number of such district, and the county superintendent shall appoint trustees and designate the terms of office to be served by each until subsequent school elections shall determine their successors.

Trustees.

At the regular election succeeding there shall be elected by the regularly qualified electors the number of trustees required to replace those whose terms are expiring. The election of trustees and terms shall be the same as for other districts under the general school laws.

When, in the interest of reducing cost of operation or improving the school service for pupils, a board of trustees of a third class district seeking to annex its territory to a third class district or districts maintaining a high school, a second class district or districts, or a first class district or districts or any combination thereof; a board of trustees of a third class district maintaining a high school seeking to annex its territory to a second class district or districts or a first class district or districts or any combination thereof; or the board of trustees of a second class district seeking to annex its territory to a first class district or districts, shall by ma-

HeinOnline -- 1967 vol. II 816 1967

jority vote of its members or at the request of twenty percent (20%) of the qualified electors of the districts indicated by a petition, ask the county superintendent of schools to annex the territory and property of such district to any district or districts as herein provided. As the board resolution or petition requests, the county superintendent shall, upon an approving vote of the trustees of the district or districts with which the annexation is sought, authorize an election in the petitioning district on such annexation within not less than twenty (20) nor more than thirty (30) days. Notice of such election shall be given in the same manner and the same general plan for balloting shall be utilized on the question of district annexation by the electors of the petitioning district that is authorized herein for district consolidation.

Annexation—election and ballot.

The ballot shall in this case be "For annexation" and "Against annexation." Should the action of the boards of trustees approving the plan of annexation be approved by majority vote of electors of the district *or districts* seeking *election on the issue and by majority vote of the electors of the district or districts seeking election on the issue whose names appear upon the last completed assessment roll, provided that at least a percentage of such electors in each district, equal to the percentage required in Section 75-3914, R.C.M. 1947, for approval of a bond issue, have voted, then the consolidation* sought shall be affected by order of the county superintendent of schools within ten (10) days after such election. In the event of a disapproving vote by majority of votes cast *by all the electors or by the electors whose names appear on the last preceding completed assessment roll or if the percentage of the electors whose names appear upon the last preceding completed assessment roll and who vote in either of such voting districts is less than the percentage required in Section 75-3914 for approval of a bond issue,* the proposed annexation shall fail.

In case of annexation of any district to any existing district or districts, as herein provided, the proper officers of the annexed districts, within ten (10) days from the receipt of a copy of the annexation order, shall turn over to the proper officers of the district or districts to which it is annexed, all records, funds, and effects of such annexed district. When a district is proportionately annexed, as provided herein, section 75-1808, Revised Codes

HeinOnline -- 1967 vol. II 817 1967

of Montana, 1947, controls. In case of the formation of a district by consolidation the proper officers of the discontinued district or districts in like manner, within ten (10) days after the organization of the district by consolidation, shall turn over the records, funds, and effects of such old district to the proper officers of the district created by consolidation.

Title to school property.

In case of creation of a district by annexation, the title to schoolhouses and sites of the petitioning district shall vest in the receiving district or districts in which the schoolhouses and sites are located. The officers of the receiving district or districts shall continue to hold office until the end of the terms for which they were duly elected and their successors shall be regularly elected as provided by law.

School laws to govern.

School districts created by consolidation or annexation shall be governed by the general school laws of the state.

Bonded indebtedness.

Bonded indebtedness of any district resulting from merger by consolidation or annexation shall *become* the indebtedness and obligation of the *consolidated* district and be paid by levies imposed upon property therein, *provided that when a third class district is proportionately annexed to any number of first or second class districts, as herein provided, the bonded indebtedness, if any, of such third class district shall be come the bonded indebtedness of such first or second class districts in the same proportions as the taxable valuation of each annexed portion bears to the total taxable valuation of such third class district."*

Approved: March 2, 1967.

CHAPTER 272

An Act to Amend Sections 9-402, 9-403, 9-404, 9-405 and 9-406, of Chapter 264, Laws of Montana, 1963, Compiled as Sections 87A-9-402, 87A-9-403, 87A-9-404, 87A-9-405 and 87A-9-406, Revised Codes of Montana, 1947, Relating to the Formal Requisites of Financing Statements, The Filing of Financing Statements, Termination Statements, Assignments of Security Interests and the Release of Security Interests, by Providing for Including

HeinOnline -- 1967 vol. II 818 1967

the Name of the Record Owner or Record Lessee When the Financing Statement Covers Crops Grown or to be Grown or Goods Which Are or Are to Become Fixtures, by Providing That Such Financing Statements, Termination Statements, Assignments and Releases Shall be Indexed in Accordance With the Requirements Applicable to Real Estate Mortgages; Repealing All Acts or Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 9-402, Chapter 264, Laws of Montana, 1963, compiled as Section 87A-9-402, Revised Codes of Montana, 1947, is hereby amended to read as follows: Amending clause.

"87A-9-402. **Formal requisites of financing statement —amendments.** (1) A financing statement is sufficient if it is signed by the debtor and the secured party, gives an address of the secured party from which information concerning the security interest may be obtained, gives a mailing address of the debtor and contains a statement indicating the types, or describing the items, of collateral. A financing statement may be filed before a security agreement is made or a security interest otherwise attaches. *Except for financing statements filed pursuant to Section 87A-9-302.2, R.C.M. 1947* when the financing statement covers crops growing or to be grown or goods which are or are to become fixtures, the statement must also contain a description of the real estate concerned *and the name of the record owner or record lessee thereof.* A copy of the security agreement is sufficient as a financing statement if it contains the above information and is signed by both parties. Requisites of financing statement—amendments.

(2) A financing statement which otherwise complies with subsection (1) is sufficient although it is signed only by the secured party when it is filed to perfect a security interest in

(a) collateral already subject to a security interest in another jurisdiction when it is brought into this state. Such a financing statement must state that the collateral was brought into this state under such circumstances.

(b) proceeds under section 87A-9-306 if the security interest in the original collateral was perfected. Such a financing statement must describe the original collateral.

HeinOnline -- 1967 vol. II 819 1967

Form.

(3) A form substantially as follows is sufficient to comply with subsection (1):

Name of debtor (or assignor) .....

Address .....

Name of secured party (or assignee) .....

Address .....

Name of Record Owner or Record Lessee .....

Address .....

1. This financing statement covers the following types (or items) of property:

(Describe) .....

2. (If collateral is crops) The above described crops are growing or are to be grown on:

(Describe Real Estate) .....

3. (If collateral is goods which are or are to become fixtures) The above described goods are affixed or to be affixed to:

(Describe Real Estate) .....

4. (If proceeds or products of collateral are claimed) Proceeds—Products of the collateral are also covered.

Signature of Debtor (or Assignor) .....

Signature of Secured Party (or Assignee) .....

"Financing statement."

(4) The term "financing statement" as used in this chapter means the original financing statement and any amendments but if any amendment adds collateral, it is effective as to the added collateral only from the filing date of the amendment.

(5) A financing statement substantially complying with the requirements of this section is effective even though it contains minor errors which are not seriously misleading."

Amending clause.

Section 2. Section 9-403, Chapter 264, Laws of Montana, 1963, compiled as Section 87A-9-403, Revised Codes of Montana, 1947, is hereby amended to read as follows:

HeinOnline -- 1967 vol. II 820 1967

"87A-9-403. **What constitutes filing—duration of filing—effect of lapsed filing—duties of filing officer.** (1) Presentation for filing of a financing statement and tender of the filing fee or acceptance of the statement by the filing officer constitutes filing under this chapter. Filing.

(2) A filed financing statement which states a maturity date of the obligation secured of five years or less is effective until such maturity date and thereafter for a period of sixty days. Any other filed financing statement is effective for a period of five years from the date of filing. The effectiveness of a filed financing statement lapses on the expiration of such sixty-day period after a stated maturity date or on the expiration of such five-year period, as the case may be, unless a continuation statement is filed prior to the lapse. Upon such lapse the security interest becomes unperfected. A filed financing statement which states that the obligation secured is payable on demand is effective for five years from the date of filing. Duration of filing.

(3) A continuation statement may be filed by the secured party (i) within six months before and sixty days after a stated maturity date of five years or less, and (ii) otherwise within six months prior to the expiration of the five-year period specified in subsection (2). Any such continuation statement must be signed by the secured party, identify the original statement by file number and state that the original statement is still effective. Upon timely filing of the continuation statement, the effectiveness of the original statement is continued for five years after the last date to which the filing was effective whereupon it lapses in the same manner as provided in subsection (2) unless another continuation statetment is filed prior to such lapse. Succeeding continuation statements may be filed in the same manner to continue the effectiveness of the original statement. Unless a statute on disposition of public records provides otherwise, the filing officer may remove a lapsed statement from the files and destroy it. Continuation statement—lapsed filing.

(4) A filing officer shall mark each statement with a consecutive file number and with the date and hour of filing and shall hold the statement for public inspection. In addition the filing officer shall index the statements according to the name of the debtor and shall note in the Duties of filing officer.

HeinOnline -- 1967 vol. II 821 1967

index the file number and the address of the debtor given in the statement.

Indexing.

(5) Except financing statements filed pursuant to Section 87A-9-302.2, R.C.M. 1947, if the instrument covers crops growing or to be grown or goods which are, or are to become fixtures, or timber, said instrument shall be indexed in accordance with the requirements applicable to the recording of mortgages of real estate under the laws of this state. For the purpose of such indexing, each of the debtor (or assignor) and the record owner or record lessee of any real estate described in the financing statement shall be considered a mortgagor with respect to the financing statement and the secured party (or assignee)) shall be considered a mortgagee with respect to the financing statement.

Filing fees.

(6) If the collateral is equipment or rolling stock of railroads or street railways, the fee for filing, indexing, and furnishing filing data for an original or a continuation statement shall be fifteen dollars ($15.00). In all other cases the uniform fee for filing, indexing and furnishing filing data for an original or a continuation statement shall be one dollar ($1.00), except that where recording is done by photographic or other similar process the uniform fee shall be two dollars ($2.00) for each page or fraction thereof of such original or continuation statement."

Amending clause.

Section 3. Section 9-404, Chapter 264, Laws of Montana, 1963, compiled as Section 87A-9-404, Revised Codes of Montana, 1947, is hereby amended to read as follows:

Termination statement.

"'87A-9-404. **Termination statement.** (1) Whenever there is no outstanding secured obligation and no commitment to make advances, incur obligations or otherwise give value, the secured party must on written demand by the debtor send the debtor a statement that he no longer claims a security interest under the financing statement, which shall be identified by file number, *and by document number, as the case may be.* A termination statement signed by a person other than the secured party of record must include or be accompanied by the assignment or a statement by the secured party of record that he has assigned the security interest to the signer of the termination statement. The uniform fee for filing and indexing such an assignment or statement thereof shall be one dol-

Filing fee.

HeinOnline -- 1967 vol. II 822 1967

lar ($1.00), except that where recording is done by photographic or other similar process the uniform fee shall be two dollars ($2.00) for each page or fraction thereof of such assignment or statement. If the affected secured party fails to send such a termination statement within ten days after proper demand therefor he shall be liable to the debtor for one hundred dollars, and in addition for any loss caused to the debtor by such failure.

Indexing.

(2) On presentation to the filing officer of such a termination statement he must note it in the index. The filing officer shall remove from the files, mark "terminated" and send or deliver to the secured party the financing statement and any continuation statement, statement of assignment or statement of release pertaining thereto. *If the original financing statement or any continuation statement has been indexed in the records relating to real estate mortgages, the termination statement must be indexed in accordance with the requirements applicable to releases of real estate mortgages.*

Filing fees.

(3) If the collateral is equipment or rolling stock of railroads or street railways, the fee for filing and indexing a termination statement including sending or delivering the financing statement shall be fifteen dollars ($15.00). In all other cases the uniform fee for filing and indexing a termination statement including sending or delivering the financing statement shall be one dollar ($1.00), except that where recording is done by photographic or other similar process the uniform fee shall be two dollars ($2) for each page or fraction thereof of such termination statement."

Amending clause.

Section 4. Section 9-405, Chapter 264, Laws of Montana, 1963, compiled as Section 87A-9-405, Revised Codes of Montana, 1947, is hereby amended to read as follows:

Assignment of security interest —duties of filing officer—fees.

"87A-9-405. **Assignment of security interest—duties of filing officer—fees.** (1) A financing statement may disclose an assignment of a security interest in the collateral described in the statement by indication in the statement of the name and address of the assignee or by an assignment itself or a copy therof on the face or back of the statement. Either the original secured party or the assignee may sign this statement as the secured party. On presentation to the filing officer of such a financing statement the filing officer shall mark the same as pro-

HeinOnline -- 1967 vol. II 823 1967

vided in section 87A-9-403 (4). If the collateral is equipment or rolling stock of railroads or street railways, the fee for filing, indexing and furnishing filing data for a financing statement so indicating an assignment shall be fifteen dollars($15.00). In all other cases the uniform fee for filing, indexing and furnishing filing data for a financing statement so indicating an assignment shall be one dollar ($1.00), except that where recording is done by photographic or other similar process the uniform fee shall be two dollars ($2.00) for each page or fraction thereof of such statement.

(2) A secured party may assign of record all or a part of his rights under a financing statement by the filing of a separate written statement of assignment signed by the secured party of record and setting forth the name of the secured party of record and the debtor, the file number and the date of filing of the financing statement and the name and address of the assignee and containing a description of the collateral assigned. A copy of the assignment is sufficient as a separate statement if it complies with the preceding sentence. On presentation to the filing officer of such a separate statement, the filing officer shall mark such separate statement with the date and hour of the filing. He shall note the assignment on the index of the financing statement. *If the original financing statement or any continuation statement has been indexed in the records relating to real estate mortgages, the statement of assignment must contain a reference to the document number of such original or continuation statement and must be indexed in accordance with the requirements applicable to assignments of mortgages.* If the collateral is equipment or rolling stock of railroads or street railways, the fee for filing, indexing and furnishing filing data about such a separate statement of assignment shall be fifteen dollars ($15.00). In all other cases the uniform fee for filing, indexing and furnishing filing data about such a separate statement of assignment shall be one dollar ($1.00), except that where recording is done by photographic or other similar process the uniform fee shall be two dollars ($2.00) for each page or fraction thereof of such statement.

(3) After the disclosure or filing of an assignment under this section, the assignee is the secured party of record."

HeinOnline -- 1967 vol. II 824 1967

Section 5. Section 9-406, Chapter 264, Laws of Montana, 1963, compiled as Section 87A-9-406,, Revised Codes of Montana, 1947, is hereby amended to read as follows:

Amending clause.

"87A-9-406. **Release of collateral—duties of filing officer—fees.** A secured party of record may by his signed statement release all or a part of any collateral described in a filed financing statement. The statement of release is sufficient if it contains a description of the collateral being released, the name and address of the debtor, the name and address of the secured party, and the file number of the financing statement. Upon presentation of such a statement to the filing officer he shall mark the statement with the hour and date of filing and shall note the same upon the margin of the index of the filing of the financing statement. *If the original financing statement or any continuation statement has been indexed in the records relating to real estate mortgages, the statement of release must contain a reference to the document number of such original or continuation statement, and must be indexed in accordance with the requirements applicable to release of mortgages.* If the collateral is equipment or rolling stock of railroads or street railways, the fee for filing and noting such a statement of release shall be fifteen dollars ($15.00). In all other cases the uniform fee for filing and noting such a statement of release shall be one dollar ($1.00), except that where recording is done by photographic or other similar process the uniform fee shall be two dollars ($2.00) for each page or fraction thereof of such statement."

Release of collateral—duties of filing officer—fees.

Section 6. All acts or parts of acts in conflict herewith are hereby repealed.

Approved: March 2, 1967.

CHAPTER 273

An Act Amending Section 75-3904, R.C.M. 1947, Relating to Early Redemption of School Bonds, to Allow Redemption of Said Bonds Within Five Years From Date of Issue of Said Bonds; Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

HeinOnline -- 1967 vol. II 825 1967

Amending clause.

Section 1. Section 75-3904, R.C.M. 1947, is amended to read as follows:

Limitation of term of bonds —interest —redemption.

"75-3904. **Limitation of term of bonds—interest—redemption.** No school district bonds shall be issued for a term longer than twenty (20) years, provided, however, that bonds issued to refund or redeem outstanding bonds shall not be issued for a longer term than ten (10) years, except when the unexpired term of the bonds to be refunded is in excess of ten (10) years, in which case the refunding bonds may be issued for such unexpired term. *All bonds issued for a longer term than five (5) years shall be redeemable at the option of the school district five (5) years from the date of issue and on any payment due date thereafter before maturity and shall be so stated on the face of the bonds.* The interest shall not exceed six per centum (6%) and shall be payable semi-annually."

Effective immediately.

Section 2. This act shall become effective upon its passage and approval.

Approved: March 2, 1967.

CHAPTER 274

An Act Amending Section 16-3302, R.C.M. 1947, As Amended By Chapter 197, Laws of 1965, to Provide for the Office of County Surveyor and Prescribe His Duties and Salary; Amending Section 32-2803, R.C.M. 1947, Enacted By Section 5-103 of Chapter 197, Laws of 1965, To Provide For an Office of County Road Superintendent in Counties Without a County Surveyor; and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 16-3302, R.C.M. 1947, as amended by Chapter 197, Laws of 1965, is hereby amended to read as follows:

County surveyor to work under direction of commissioners— approval of indebtedness— duties of surveyor.

"16-3302. **County surveyor to work under direction of county commissioners — approval of commissioners required to contract indebtedness — duties of county surveyor.** (1) The county surveyor shall work under the direction of the board of county commissioners, but shall

HeinOnline -- 1967 vol. II 826 1967

have no power or authority to incur any indebtedness on the part of the county without the prior order or approval of the board.

(2) He shall make all surveys, establish all grades, and prepare plans, specifications, and estimates.

(3) He shall make progress reports and estimates of all work, and such other facts in relation thereto, as may be required by the board.

(4) The county surveyor of all counties having a total registered vote of twenty thousand (20,000) or over at the last general election shall be responsible for supervision and direction of all highways, bridges and causeways within his county, and in the exercise of such control, supervision and direction he shall keep all highways and bridges free and clear of all obstructions; cause highways to be graded, when needed, and maintain and repair the same; cause all bridges and causeways to be made, when needed, and keep the same maintained and in good repair and renew the same when destroyed; make all surveys; establish grades; prepare plans, specifications and estimates; keep accurate cost data; approve all claims against the county for all highway, bridge and causeway construction, maintenance and repair prior to presentation to the board of county commissioners; employ deputies, men and teams, and discharge at his pleasure such deputies, men and teams, and determine how, when and where such deputies, men and teams shall work; purchase and secure all highway and bridge machinery and machinery equipment and tools to be used upon highways and bridges with the approval of the board of county commissioners; purchase and secure all highway, bridge and causeway supplies and materials with the approval of the board of county commissioners; from time to time make reports and estimates of all matters relating to highways and bridges when required by the board of county commissioners; perform such other duies as are now or which may be hereafter required by law, and shall receive the annual salary provided by law for salaried county surveyors and other county officials."

Amending clause.

Section 2. Section 32-2803, R.C.M. 1947, enacted by Section 5-103 of Chapter 197, Laws of 1965, is hereby amended to read as follows:

Plat books—surveyor—employees.

"32-2803. **Plat books — surveyor — employees.** (1) Each board may, in its discretion, order the county sur-

HeinOnline -- 1967 vol. II 827 1967

veyor, or some other surveyor if the county surveyor is incompetent, to prepare suitable plat books. Each board shall have recorded therein with the county clerk a full description of each county road, showing each course by bearing and distance, a full and complete map thereof, and a record of all proceedings with reference thereto.

(2) Each board may, in its discretion, employ a competent road supervisor, who shall serve during the pleasure of the board. Under the direction and control of the board he shall:

(a) Prescribe the times and places for all work to be done on the county roads.

(b) Report any delinquency or inefficiency of any person employed on any road.

(c) Perform such other duties as may be prescribed by the board.

(3) In any county in which the county surveyor is not paid an annual salary, he may by agreement be employed by the board to perform the services of road supervisor. He shall not be paid for any duty otherwise required by law to be performed by him as county surveyor.

(a) Nothing in this section shall be construed to alter or repeal the provisions of sections 5-308 and 5-309 of this chapter.

(4) *In counties without a county surveyor,* each board may appoint a county road superintendent. He shall have such duties, powers, and responsibilities as are set forth in part 3 (b) of this chapter *(*chapter 30 of this title*).*"

Effective immediately.

Section 3. This act shall be in full force and effect from and after the date of its passage and approval.

Approved: March 2, 1967.

CHAPTER 275

An Act to Provide That All Vacancies on the Board of Trustees in First and Second Class School Districts be Filled by Appointment by the Remaining Members of the Board; Amending Section 75-1614, R.C.M. 1947.

HeinOnline -- 1967 vol. II 828 1967

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 75-1614 is amended to read as follows: Amending clause.

"75-1614. **Vacancy in school board.** A vacancy in the office shall be filled by appointment by the county superintendent of schools; *except* that in districts of the first and second class, such appointment shall be *made* by a majority of the remaining members of said board, if those remaining constitute a majority of the total number of the board. The trustee so appointed shall hold office until the next annual election, at which election there shall be elected a school trustee for the unexpired term. When any vacancy occurs in the office of trustee of any school district by death, resignation, failure to elect at the proper time, removal from the district, or other cause, the fact of such vacancy shall be immediately certified *by the clerk of the school district,* to the county superintendent, *or to the remaining members of the board in districts of first or second class,* and the county superintendent, *or the remaining members of the board in districts of first or second class,* shall immedately appoint in writing, some competent person, who shall qualify and serve until the next annual school election. The county superintendent *or the board* shall at the time notify the clerk of the school district of every such appointment; provided, that absence from the school district for sixty consecutive days, or failure to attend three consecutive meetings of the board of trustees without good excuse, shall constitute a vacancy in the office of trustee." Vacancy in school board— procedure to fill.

Approved: March 2, 1967.

CHAPTER 276

An Act Amending the Statute on the Distribution of Obscene Literature or Material to Minors and Others, Regarding the Trial of Actions Brought Under This Section and Providing Penalties for Its Violation.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 94-3601, R.C.M. 1947, is hereby amended to read as follows: Amending clause.

HeinOnline -- 1967 vol. II 829 1967

"Obscene literature."

"94-3601 (11134) Obscene Literature. (1) "Obscene" means that to the average person, applying contemporary standards, the predominant appeal of the matter, taken as a whole, is to prurient interest, i.e., a shameful or morbid interest in nudity, sex, or excretion, which goes substantially beyond customary limits of candor in description or representation of such matters. If it appears from the character of the material, that the subject matter is designed for a specially susceptible audience, predominant appeal shall be judged with reference to such audience. If the subject matter is directed to minors under 18 years of age, predominant appeal shall be judged with reference to such class of minors.

"Matter."

"Matter" means any book, magazine, newspaper, or other printed or written material or any picture, drawing, photograph, motion picture, or other pictorial representation of any statue or other figure, or any recording, transcription or mechanical, chemical or electrical reproduction or any other articles, equipment machines or materials.

"Person."

"Person" means any individual, partnership, firm, association, corporation, or other legal entity.

"Distribute."

"Distribute" means to transfer possession of, whether with or without consideration.

"Knowingly."

"Knowingly" means having knowledge of the character and content of the subject matter or failure to exercise reasonable inspection which would disclose the content and character of the same.

Unlawful acts.

(2) It is unlawful for any person to knowingly: send or cause to be sent, or bring or cause to be brought, into this state for sale or distribution, or in this state prepare, publish, print, exhibit, distribute, or offer to distribute, any obscene matter.

(3) It is unlawful for any person to knowingly: send or cause to be sent, or exhibit or distribute or offer to distribute any obscene matter to a minor under 18 years of age, while in possession of such facts that he should reasonably know that such person is a minor under 18 years of age.

4. It is unlawful for any person, while in possession of such facts that he should reasonably know that a person is a minor under 18 years of age, to hire, employ or use

HeinOnline -- 1967 vol. II 830 1967

such minor to do or assist in doing any of the acts described in the foregoing paragraphs.

(5) It is unlawful for a person to write or create advertising or solicit anyone to publish such advertising or otherwise promote the sale or distribution of matter represented or held out by him to be obscene.

(6) No person shall, as a condition to a sale or delivery for resale of any publication not above described or not within the purview of the foregoing section, require that the purchaser or consignee receive for resale or redistribution any other publication or article whatsoever within or reasonably believed by such purchaser or consignee to be within the purview of the foregoing paragraph.

Exemptions.

(7) The prohibitions and penalties imposed hereby shall not extend to publications within any constitutional guarantee of freedom of the press or freedom of religious worship, nor to publications privileged for medical instruction, privileged as official law enforcement bulletins or publications, nor to publications or reproductions of bona fide works of literature and the fine arts.

Trial by jury.

(8) In any criminal action brought under the foregoing sections, both the people and the defendant shall have the right to trial by jury on the issue of obscenity.

Trial by court.

(9) The jury, or the court, if a jury trial is waived, shall render a general verdict, and must also render a special verdict as to whether the matter named in the charge is obscene. The special verdict or findings on the issue of obscenity may be: "We find the ..... (title or description of matter) to be obscene." Or: "We find the ..... (title or description of matter) not to be obscene," as they find each item is or is not obscene.

Amending clause.

Section 2. Section 94-3602, R.C.M. 1947, is amended to read as follows:

Penalty.

"94-3602. Penalty. (1) Every person who violates Section 94-3601 (2) is punishable by fine of not more than one hundred dollars ($100.00) plus five dollars ($5.00) for each additional unit of material coming within the provisions of this chapter, which is involved in the provisions of this chapter, which is involved in the offense, not to exceed one thousand dollars ($1,000) or by imprisonment for not more than 30 days. If such person has previously been

HeinOnline -- 1967 vol. II 831 1967

convicted of a violation of this section, he is punishable by fine of not more than five hundred dollars ($500.00) plus five dollars ($5.00) for each additional unit of material coming within the provisions of this chapter, which is involved in the offense, not to exceed twenty-five hundred dollars($2,500.00), or by imprisonment for not more than one year, or by both such fine and such imprisonment.

(2) Every person who violates Sections 94-3601 (3), (4) or (5) is punishable by fine of not more than one hundred dollars ($100.00) or by imprisonment for not more than 30 days, or by both such fine and such imprisonment. If such person has been previously convicted of a violation of either of these sections, he is punishable by imprisonment in the state prison not exceeding two years.

(3) Every person who violates Section 94-3603 (6) is punishable by fine of not more than one hundred dollars ($100.00) or by imprisonment for not more than 30 days, or by both such fine and imprisonment. For a second and subsequent offense he shall be punished by a fine of not more than five hundred dollars ($500.00), or by imprisonment for not more than one year, or by both such fine and imprisonment.

Approved: March 2, 1967.

CHAPTER 277

An Act Relating to Business Trusts; Recognizing Business Trusts in Montana.

Be it enacted by the Legislative Assembly of the State of Montana:

Definitions.

Section 1. **Definitions.** In this act, unless the context otherwise requires:

"Business trust."

(a) "Business trust" means an unincorporated association or trust of the type which at common law was known as a "business trust" or "Massachusetts trust", created by an instrument under which property is held and managed by trustees for the benefit and profit of such persons as are or may become the holders of transferable certificates evidencing beneficial interests in the trust estate.

HeinOnline -- 1967 vol. II 832 1967

Classifications of business trusts.

Section 2. **Classifications of business trusts.** Business trusts shall be either domestic or foreign. A domestic business trust is a business trust organized under the laws of this state. A foreign business trust includes every other business trust.

Form of association authorized.

Section 3. **Form of association authorized.** A business trust is permitted as a recognized form of association for the conduct of business within this state.

Filing with secretary of state —certified copy of trust instrument —filing.

Section 4. **Required filings with the secretary of state; certified copy of trust instrument; filing.**

(a) Any business trust desiring to transact business in this state shall file with the secretary of state of Montana:

(1) An executed copy of their articles, declarations of trust or trust agreement by which the trust was created and all amendments thereto, or a true copy thereof certified to be such by a trustee of the trust before an official authorized to administer oaths or by a public official of another state, territory or country in whose office an executed copy thereof is on file. Such true copy shall be verified within sixty days before it is filed with the secretary of state of Montana.

(2) A verified list of the names, residences and post office addresses of its trustees.

(3) An affidavit setting forth its assumed business name, if any.

(4) A foreign business trust shall file a verified statement in the office of the secretary of state of Montana as provided in the case of foreign corporations under Section 15-1701 (1) of the Revised Codes of Montana, 1947, and shall file, as provided for foreign corporations in Section 15-1701 (2), a copy of its articles, declaration of trust or trust agreement by which it was created, duly certified by said secretary of state, in the office of the county clerk of the county wherein its principal office or place of business in this state will be located. Such business trust shall also file, at the same time and in the same office, a certificate certifying that the said foreign business trust has consented to all the license laws and other laws of the state of Montana relative to foreign corporations and has consented to be sued in the courts of this state, upon all causes of action arising against it

HeinOnline -- 1967 vol. II 833 1967

in this state, and that service of process may be made upon some person, a citizen of this state, whose principal place of business shall be designated in such certificate, and such service, when so made upon such agent, shall be valid service on the business trust.

(b) When a business trust has complied with the filing requirements as provided in subsection (a) of this section, the secretary of state shall issue to a domestic business trust a certificate of organization, or to a foreign business trust a license to do business in this state, and such business trust may thereupon commence business.

Amendments —filing.

Section 5. **Amendments to trust instrument; filing.** The articles, declaration of trust or trust agreement by which any business trust was created may be amended in the manner specified therein or in such manner as is valid under the law applicable to such business trust, provided that no such amendment shall be legally effective in this state until a copy thereof, certified as provided in paragraph (1), subsection (a) of section 4, has been filed with the secretary of state of Montana, and a copy thereof, certified by the said secretary of state, has been filed in the office of the county clerk and recorder in the county where the principal place of business of the trust is located.

Powers— construction of instrument— binding effect of terms and conditions.

Section 6. **Powers; construction of instrument; binding effect of terms and conditions.**

(a) Subject to the provisions of section 7, the powers and authority of any business trust authorized under this article to transact business in this state shall be as specified in the instrument by which it was created, as amended, which instrument shall be construed and interpreted in accordance with the law applicable to such business trust, provided that no business trust shall engage in any activity in this state which would violate the public policy of this state or engage in any business in this state which private corporations for profit organized under the laws of this state may not legally transact.

(b) Subject to the limitations on power and authority as provided in subsection (a) of this section, any person dealing with a business trust authorized under this article to transact business in this state shall be bound by the terms and conditions of the instrument by which the

HeinOnline -- 1967 vol. II 834 1967

business trust was created and by any amendments thereto which have been filed and recorded in compliance with section 5.

Taxation.

Section 7. **Taxation.** Any business trust created under this article or entering this state pursuant to this article shall pay such taxes and fees as are imposed by the laws, ordinances and regulations of this state, and any counties and municipalities thereof, on domestic and foreign corporations, respectively, on an identical basis therewith.

Corporate laws applicable.

Section 8. **Corporate laws applicable.** Any business trust shall be subject to such applicable provisions of law from time to time in effect with respect to domestic and foreign corporations, respectively. These shall include, without limitation, such applicable provisions of law as relate to the issuance of securities, filing of required statements and reports, service of process, general grants of power to act, withdrawal, right to sue and be sued, limitation of individual liability of shareholders, and rights to acquire, mortgage, sell, lease, operate and otherwise deal in or with real property.

Approved: March 2, 1967.

CHAPTER 278

An Act to Amend Section 25-309 as Last Amended by Chapter 3 Laws of Montana, R.C.M. 1965, Relating to the Fees of Constables and Providing that Constable Salaries Be Fixed by Resolution of the County Commissioners.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 25-309, R.C.M. 1965, is amended to read as follows:

Fees of constable.

"25-309. (4932) **Fees of constable.** For serving summons, including copy on each defendant, besides mileage, fifty cents.

For serving subpoena, including copy on each person, besides mileage, twenty cents.

HeinOnline -- 1967 vol. II 835 1967

For all services in summoning a jury and taking charge of same, two dollars.

For all services in serving an attachment on property, or levying an execution, or executing an order of arrest, or order for the delivery of personal property, including all copies, one dollar.

For the expense in taking and keeping possession of or preserving property under attachment, execution, or other process, the same fees and upon the same conditions as allowed to the sheriff.

For taking and receiving undertaking in any case in which he is authorized, one dollar.

For serving every notice, rule or order, besides mileage, including copy, one dollar.

For advertising any property for sale under execution, exclusive of costs of publication, one dollar.

For serving writ of possession, besides mileage, two dollars.

For all services in trial of right of property or damages, besides mileage, three dollars.

For commissions for receiving and paying over money on execution or other process where property has been levied on and sold, two percent; when collected without sale, one per cent.

For mileage, the same as sheriff and under the same conditions.

For executing in duplicate a certificate of sale exclusive of the fee for filing, one dollar.

For drawing and executing a constable's deed, including acknowledgement, three dollars.

For making every arrest in a criminal proceeding, or executing a search warrant, besides mileage, one dollar and fifty cents.

For all services in summoning and taking charge of a jury, two dollars.

For serving a subpoena, including copy on each person, besides mileage, twenty cents.

HeinOnline -- 1967 vol. II 836 1967

For every mile necessarily traveled in executing any warrant, serving subpoena, or taking a person before a magistrate or to jail, the same mileage as in civil actions, and under the same conditions, and in addition, in serving a subpoena or warrant when two or more persons are named in any warrant or subpoena, in the same or different actions in the hands of the officer, and such persons live in the same direction, but one mileage must be charged, as provided for the mileage of sheriffs in civil actions.

When two or more persons are brought before a magistrate or to jail at the same time, or might have been so brought, the officer must be allowed but one mileage.

For conveying a person when under arrest, the actual expense incurred in the transportation of such person must be allowed by the board of county commissioners, but the officer must pay his own expenses out of his mileage.

The total amount of fees allowed in criminal cases by the board of county commissioners must not exceed five hundred dollars ($500.00) in any one year. The excess must be paid into the contingent fund of the county treasury.

That constables in townships having a population of twelve thousand (12,000) people and not exceeding twenty thousand (20,000) people, shall each receive a salary *to be fixed by resolution of the county commissioners, but not to exceed* $900.00 per annum, payable monthly from the county treasury. Constables in townships having a population of more than twenty thousand (20,000) people shall each receive a salary *to be fixed by resolution of the county commissioners, but not to exceed $3,600.00 per annum,* payable monthly from the county treasury, and constables in such townships where the population is twelve thousand (12,000) people and not more than thirty-five thousand (35,000) people shall receive no other fees for civil suits or criminal actions except mileage in the performance of their duties. Any such fees received by the constables shall be turned over to the county treasurer."

Approved: March 2, 1967.

HeinOnline -- 1967 vol. II 837 1967

CHAPTER 279

An Act Amending Sections 87A-9-302.1 and 87A-9-302.2, R.C.M. 1947, Relating to Filing of Instruments Under the Provisions of the Uniform Commercial Code by Public Utilities to Include Other Similar Corporations; Providing for a Repealing Clause and for an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 87A-9-302.1, R.C.M. 1947, is amended to read as follows:

Financing statements of transmitting utilities—definitions.

"87A-9-302.1 **Financing statements of transmitting utilities—definitions.** As used in this act,

"Transmitting utility."

(a) "Transmitting utility" means: *(1)* Any corporation or other business entity primarily engaged, pursuant to rights or franchises issued by and subject to the jurisdiction of a state or federal regulatory body, in the railroad or street railway business, the telephone or telegraph business, the transmission of oil, gas or petroleum products by pipeline, or the transmission or the production and transmission of electricity, steam, gas or water, *and (2) any other corporation primarily engaged in the production, transmission or distribution of electricity, or the furnishing of telephone service, whether or not such corporation is subject to the jurisdiction of a state or federal regulatory body.*

"Uniform Commercial Code."

(b) "Uniform Commercial Code" means Chapters 1 through 10 of Title 87A of the Revised Codes of Montana, 1947."

Amending clause.

Section 2. Section 87A-9-302.2, R.C.M. 1947, is amended to read as follows:

Place of filing utility financing statement—contents—perfection of security interest.

"87A-9-302.2. **Place of filing of utility financing statement—contents—perfection of security interest.** Financing statements of a transmitting utility, notwithstanding sections 87A-9-302(3), 87A-9-302(4), 87A-9-401(1), 87A-9-402, *87A-9-403, 87A-9-404, 87A-9-405 and 87A-9-406* of the Uniform Commercial Code.

(a) If filing is required under the Uniform Commercial Code, the proper place to file in order to perfect a security interest in personal property or fixtures of a transmitting utility *or other corporation covered hereby* is in the office of the secretary of state;

HeinOnline -- 1967 vol. II 838 1967

(b) When the financing statement covers goods of a transmitting utility which are or are to become fixtures, no description of the real estate concerned is required;

(c) A security interest in rolling stock of a transmitting utility may be perfected either as provided in section 20 (c) of the Interstate Commerce Act or by filing a financing statement pursuant to the Uniform Commercial Code as provided in subsection (a).

Repealing clause.

Section 3. All acts and parts of acts in conflict herewith are hereby repealed.

Effective immediately.

Section 4. This act shall be effective upon its passage and approval.

Approved: March 2, 1967.

CHAPTER 280

An Act to Establish a County Printing Commission Which Will Set Maximum Prices for County Printing and Legal Advertising; and to Provide for the Appointment, Compensation, Powers and Duties of the Commission.

Be it enacted by the Legislative Assembly of the State of Montana:

County Printing Commission Act.

Section 1. **Act how cited.** This act may be cited as the County Printing Commission Act.

Purpose.

Section 2. **Purpose.** The purpose of this act is to establish a county printing commission which will have the power and duty to set maximum prices which may be charged for county printing and legal advertising.

Members.

Section 3. **Establishment of county printing commission.** There is hereby established a county printing commission which shall consist of five (5) members to be appointed by the governor for terms of two (2) years, two (2) members of which shall be members of the printing industry, two (2) of which shall be county commissioners, and one (1) shall be a member of the general public. This commission shall be appointed within thirty (30) days after passage and approval of this act. This commission shall meet annually.

HeinOnline -- 1967 vol. II 839 1967

Compensation.

Section 4. **Compensation.** Each of the members of the commission shall receive as compensation the sum of twenty dollars ($20) per diem for each day actually engaged in the duties of his office and nine cents ($.09) per mile for each mile traveled.

Powers and duties.

Section 5. **Powers and duties of commission.** The county printing commission shall have the power and duty to:

(1) establish rules and regulations for the government and conduct of the commission and duties for its meetings;

(2) adopt and publish a schedule of maximum prices to be charged for county printing and legal advertising. Such prices shall be the full prices to be charged and shall include the paper stock specified, completion of all printing and other work, and delivery to the county courthouse;

(3) adopt all necessary standards for sizes, weights, and grades of paper stock, which shall conform to the uniform scale of sizes, weights and grades used by paper manufacturers, and for sizes and types of printing, ruling and binding, which shall conform as nearly as possible to the ordinary standards in use in the printing industry. For this purpose, reference may be made to established standards or publications used in the state of Montana, and the commission may provide for the adoption of such a standard list for those items not covered by the prices, regulations, or standards published by the commission;

(4) conduct hearings when required to determine maximum rates for county printing. Notice of intention to hold such a hearing shall be published at least thirty (30) days before the date set for the hearing in a newspaper published in Helena, Montana, and a copy mailed to each board of county commissioners;

(5) deliver free of charge to each board of county commissioners in this state a copy of every schedule of maximum prices adopted by the commission within thirty (30) days of its publication, together with a notice of the date fixed by the commission when the prices will be effective.

Commissioners to contract for county printing.

Section 6. **County commissioners to contract for county printing.** It is hereby made the duty of the county

HeinOnline -- 1967 vol. II 840 1967

commissioners of the several counties of the state of Montana to contract with one (1) newspaper, published at least once a week, and of general bona fide and paid circulation with second class mailing privileges, published within the county, and having been published continuously in such county at least twelve (12) months immediately preceding the awarding of such contract, to do and perform all the printing for which said counties may be chargeable, including all legal advertising required by law to be made, and all other printed forms required for the use of such counties at not more than the prices set by the county printing commission.

Contractor's bond —subletting.

Section 7. **Contractor's bond—subletting.** The contract shall be let to the newspaper that in the judgment of the county commissioners shall be most suitable for performing said work, provided, that the county commissioners shall require of any contractor to do such county printing, a good and sufficient deposit in such sum as said commissioners may deem advisable, signed by at least two (2) sufficient sureties, conditioned to the effect that said contractor will faithfully perform all of the conditions of said contract in accordance with this act and the terms of such contract; provided that nothing in this act shall be construed so as to compel the acceptance of unsatisfactory work; also provided, however, that this requirement shall not affect any contract made prior to the passage of this act. Such contract for printing shall extend for a period of not more than two (2) years. All newspapers which may receive any contract for printing under this act and which may not be able to execute any part of such contract shall be required to sublet such contract or portion of contract to some newspaper or printing establishment within the state, which shall do the work under the contract so sublet entirely within the state with Montana labor.

Bids.

Section 8. Nothing in this act shall limit or restrict the power of a board of county commissioners to call for competitive bids from persons or firms qualified to bid on county printing under the terms of this act, or to let contracts at prices less than the maximum fixed by the county printing commission.

Exemptions.

Section 9. None of the provisions of this act shall apply to any printing or advertising that may be required

HeinOnline -- 1967 vol. II 841 1967

in connection with the holding of county fairs and expositions.

Repealing clause.

Section 10. Sections 16-1201 through 16-1224, R.C.M. 1947, and all other acts and parts of acts in conflict with the provisions of this act are hereby repealed.

The prices contained in these sections shall remain in effect until the first meeting of the commission.

Approved: March 2, 1967.

CHAPTER 281

An Act to Provide That Cities or Towns May Extend Their Boundaries to Include Tracts of Land Which Have Been Platted for Parks by Adoption of a Resolution to That Effect by the City or Town, Amending Section 11-403, R.C.M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 11-403, R.C.M. 1947, is amended to read as follows:

Extension of boundaries of cities and towns to include contiguous tracts.

"11-403. **Extension of boundaries to include contiguous platted tracts or other parcels of land.** (1) **Cities or towns of the first class.** Any tracts or parcels of land, which have been or may hereafter be platted into lots or blocks, streets, and alleys, *or platted for parks,* and the map or plat thereof filed in the office of the county clerk and recorder of the county in which the same are situated, or any unplatted land that has been surveyed and for which a certificate of survey has been filed, as provided in these codes, and which platted or unplatted land shall be contiguous to any incorporated city of the first class, may be embraced within the corporate limits thereof, and the boundaries of such city of the first class extended so as to include the same in the following manner: When, in the judgment of any city council of a city of the first class, expressed by a resolution duly and regularly passed and adopted, it will be to the best interest of such city and the inhabitants of any contiguous platted tracts or parcels of land, or unplatted land for which a certificate of survey has been filed, that the boundaries of such city shall be extended, so as to include the same within the corporate limits thereof, the city clerk of such city shall

HeinOnline -- 1967 vol. II 842 1967

forthwith cause to be published in the newspaper published nearest such platted tracts or parcels of land, or unplatted land for which a certificate of survey has been filed, at least once a week for two successive weeks, a notice which shall be to the effect that such resolution has been duly and regularly passed, and that for a period of twenty *(20)* days after the first publication of such notice, such city clerk will receive expressions of approval or disapproval, in writing, of the proposed extensions of the boundaries of such city of the first class, from resident freeholders of the territory proposed to be embraced therein. The clerk shall, at the next regular meeting of the city council of such city of the first class after the expiration of said twenty *(20)* days, lay before the same all communications in writing by him so received for its consideration, and if, after considering the same, such council shall duly and regularly pass and adopt a resolution to that effect, the boundaries of such city of the first class shall be extended so as to embrace and include such platted tracts or parcels of land or unplatted land for which a certificate of survey has been filed, the time when the same shall go into effect to be fixed by such resolution; provided however, that land used for industrial or manufacturing purposes shall not be included in such city under the provisions of this section without the consent in writing of the owners of such land, and further provided, that such resolution shall not be adopted by such council if disapproved, in writing, by a majority of the resident freeholders, if any, of the territory proposed to be embraced and no further resolutions relating to the annexation of said territory or any portion thereof may be considered or acted upon by the council on its own initiative and without petition, for a period of one year from the date of disapproval.

Resolutions and exceptions.

Provided also, that cities of the first class may include as part of such city any platted or unplatted tract or parcel of land that is wholly surrounded by such city upon passing a resolution advertising and upon passing a further resolution or following such advertising, all in the manner aforesaid, and such land shall be annexed, if so resolved, whether or not a majority of the resident freeholders, if any, of the land to be annexed object; provided, however, that land used for agricultural, mining, smelting, refining, transportation, or any industrial or manufacturing purpose or for the purpose of maintaining

HeinOnline -- 1967 vol. II 843 1967

or operating a golf or country club, an athletic field or aircraft landing field, a cemetery or a place for public or private outdoor entertainment or any purpose incident thereto, shall not be annexed under this provision.

Notice and publication.

(2) **Cities and towns of the second and third class.** Any tracts or parcels of land, which shall be contiguous to any incorporated cities or towns of the second and third class, may be embraced within the corporate limits thereof and the boundaries of such cities or towns of the second and third class extended so as to include the same in the following manner: When, in the judgment of any such city or town council, expressed by resolution duly and regularly passed and adopted, it will be to the best interest of such city, or town and the inhabitants thereof, and of the inhabitants of any contiguous tracts or parcels of land, as aforesaid, that the boundaries of such city or town shall be extended, so as to include the same within the corporate limits thereof, the city or town clerk of such city or town shall forthwith notify in writing all property holders within the boundaries of the territory proposed to be embraced, and cause to be published in the newspaper published nearest such tracts or parcels of land, at least once a week for two successive weeks, a notice which shall be to the effect that such resolution has been duly and regularly passed and that for a period of twenty *(20)* days after the first publication of such notice, such city or town clerk will receive expressions of approval or disapproval, in writing, of the proposed extensions of the boundaries of such city or town, from freeholders of the territory proposed to be embraced therein. The clerk shall, at the next regular meeting of the city or town council after the expiration of said twenty *(20)* days, lay before the same all communications in writing by him so received for its consideration, and if, after considering the same, such council shall duly and regularly pass and adopt a resolution to that effect, the boundaries of such city or town of the second or third class, shall be extended so as to embrace and include such tracts or parcels of land, the time when the same shall go into effect to be fixed by such resolution; provided, that such resolution shall not be adopted by such council, if disapproved, in writing, by a majority of the freeholders of the territory proposed to be embraced.

HeinOnline -- 1967 vol. II 844 1967

(3) Whenever two or more adjacent tracts taken as a whole shall adjoin the city, they may be included in one resolution under subdivision (2) hereof, although one or more of said tracts taken alone may not be adjacent to the corporate limits as then existing."

Approved: March 2, 1967.

CHAPTER 282

An Act Amending Section 80-105, R.C.M. 1947, to Permit the Admittance of Children Under the Age of Five Years to the State School for the Deaf and Blind; and Amending Section 80-107, R.C.M. 1947, to Permit a Child to Attend the State School for the Deaf and Blind Until Reaching the Age of Twenty-one Years if the Board of Education and Superintendent Determine That Attendance at the School Benefits the Child.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 80-105, R.C.M. 1947, is amended to read as follows: Amending clause.

"80-105. **Eligibility of children for admittance.** On proper application being made therefor, deaf and blind children who are not more than eighteen (18) years of age residing within the state of Montana, and nonresident children, *who are not more than eighteen (18) years of age,* who are not mentally deficient, dangerously diseased in body, or of confirmed immorality, or incapacitated for useful instruction by reason of physical disability, may be admitted to such school." Eligibility of children for admittance to state school for deaf and blind.

Section 2. Section 80-107, R.C.M. 1947, is amended to read as follows: Amending clause.

"80-107. **Duration of attendance at school.** Every child admitted to such school shall be entitled to attend such school until reaching the age of twenty-one (21) years *unless the board of education and superintendent determine that attendance at the school will not benefit the child;* provided, that nothing in this section shall be construed so as to prevent the suspension or expulsion of any child at any time for insubordination or other cause deemed good and sufficient by the board of education and superintendent." Duration of attendance.

Approved: March 2, 1967.

HeinOnline -- 1967 vol. II 845 1967

CHAPTER 283

An Act to Provide for the Support of the Government of Montana for the Years 1967 and 1968, Providing a Severability Clause and An Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Tax levies—1967.

Section 1. The following tax levies for state purposes are hereby made upon all property in the state of Montana, subject to taxation, for the year 1967, as ascertained by taking the percentage of the true and full value provided by law for purposes of taxation, to wit:

(a) For the state general fund, two (2) mills, or so much thereof as the state board of equalization may find necessary, under the provisions of section 84-713, Revised Codes of Montana, 1947.

(b) For the university of Montana building bond interest and redemption fund created under referendum measure No. 52, one (1) mill or so much thereof as the state board of equalization may find necessary, under the provisions of Referendum Measure No. 52.

(c) For the Montana state hospital for the insane bond interest and redemption fund created under Referendum Measure No. 57, one-half (½) of one (1) mill or so much thereof as the state board of equalization may find necessary, under the provisions of Referendum Measure No. 57.

(d) For the Montana state training school bond interest and redemption fund created under Referendum Measure No. 58, one-half (½) of one (1) mill or so much thereof as the state board of equalization may find necessary, under the provisions of Referendum Measure No. 58.

(e) For the university millage fund, to provide funds for the support of the Montana university system, as provided in Referendum Measure No. 61 and passed by vote of the people at the general election held November 4, 1958, six (6) mills, or so much thereof as may be necessary to raise the amount appropriated by the legislative assembly from the university millage fund for support of the units of the Montana university system.

Tax levies—1968.

Section 2. The following tax levies for state purposes are hereby made upon all property in the state of Mon-

HeinOnline -- 1967 vol. II 846 1967

tana, subject to taxation, for the year 1968, as ascertained by taking the percentage of the true and full value provided by law for the purposes of taxation, to wit:

(a) For the state general fund, two (2) mills, or so much thereof as the state board of equalization may find necessary under the provisions of section 84-713, Revised Codes of Montana, 1947.

(b) For the university of Montana building bond interest and redemption fund created under Referendum Measure No. 52, one (1) mill or so much thereof as the state board of equalization may find necessary, under the provisions of Referendum Measure No. 52.

(c) For the Montana state hospital for the insane bond interest and redemption fund created under Referendum Measure No. 57, one-half (½) of one (1) mill or so much thereof as the state board of equalization may find necessary, under the provisions of Referendum Measure No. 57.

(d) For the Montana state training school bond interest and redemption fund created under Referendum Measure No. 58, one-half (½) of one (1) mill or so much thereof as the state board of equalization may find necessary, under provisions of Referendum Measure No. 58.

(e) For the university millage fund, to provide funds for the support of the Montana university system, as provided in Referendum Measure No. 61 and passed by vote of the people at the general election held November 4, 1958, six (6) mills, or so much thereof as may be necessary to raise the amount appropriated by the legislative assembly from the university millage fund for support of the units of the Montana university system.

Section 3. If any part of this act shall be declared invalid or unconstitutional, it shall not affect the validity of any other part of this act. **Severability clause.**

Section 4. This act shall be in full force and effect from and after its passage and approval. **Effective immediately.**

Approved: March 2, 1967.

HeinOnline -- 1967 vol. II 847 1967

CHAPTER 284

An Act Amending Sections 89-3301, 89-3302, 89-3303, 89-3304, 89-3306, 89-3307, 89-3308, 89-3309, 89-3310, 89-3311, R.C.M. 1947, Relating to City and County Flood Control Projects, to Authorize Multiple Use Water Projects by Cities and Counties; to Change the Method of Levying the Special Assessment to Pay for Such Projects; Authorizing Cities and Counties to Charge Fees for Services and Facilities Provided by Such projects; and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 89-3301, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

City and county flood control and multiple use water projects—participation—work undertaken.

"89-3301. **Participation in projects authorized—work which may be undertaken.** Cities, towns or counties, through their councils, boards of county commissioners, or other governing body, are hereby empowered, either individually or jointly, to engage or participate in the establishment of *water conservation and* flood control projects within the limits of such city, town or county for the protection or reclamation of property situated therein from floods or high waters and to protect property therein from the effects of flood water, *and for the conservation, development, storage, distribution, drainage and utilization of water for purposes beneficial to the district, such purposes to include but not be limited to industrial and municipal water supply, recreation and wildlife, irrigation, streamflow stabilization, household and domestic use and pollution abatement,* whenever the establishment of such a *water conservation and* flood control system shall, in the judgment of the city council, board of county commissioners or other governing body, be conducive to public convenience and welfare. Such cities, towns or counties may in accordance with the provisions of this act individually, jointly or severally, or in cooperation with the federal *or state* government or any department or agency thereof, and with each other, deepen, widen, straighten, alter, change, divert or otherwise improve the watercourses within or without their limits, by constructing levees, dikes, embankments, structures, impounding reservoirs or conduits, and improve, widen and establish streets, alleys and boulevards across and adjacent to the

HeinOnline -- 1967 vol. II 848 1967

abandoned or new channel or conduit and provide for the payment of the cost and maintenance of such project *or projects* under the terms of this act. *The boundaries of a project once established shall not be extended without the vote of a majority of the electors residing in the area proposed to be annexed. Such electors to be determined and such election to be held in accordance with the provisions of section 89-3312 of this act.*"

Amending clause.

Section 2. That section 89-3302, Revised Codes of Montana, 1947, be, and the same is amended to read as follows:

Water conservation and flood control declared public purpose.

"89-3302. *Water conservation and* **flood control activities declared public purpose.** Such *water conservation and* flood control activities, their establishment, construction, operation and maintenance as authorized by this act are declared to be for the protection of the tax base of the city, town or county, for the protection of public roads, lands and improvements, and for the protection of the public health, sanitation, safety and *for improvement of the* general welfare."

Amendment.

Section 3. That section 89-3303, Revised Codes of Montana, 1947, be, and the same is amended to read as follows:

Acquisition of property—condemnation.

"89-3303. **Acquisition of property—condemnation.** Cities, towns and counties may acquire by gift, purchase or condemn and appropriate private property within the limits of the project, including the right to cross railroad right of way and property and highway right of way and property, so as not to impair the previous public use, as may be necessary to carry into effect the provisions of this act, and to provide an outlet for the watercourses, either natural or artificial, which may be deepened, widened, straightened, altered, changed, diverted or otherwise improved under the provisions of this act. All provisions of the laws of the state of Montana relating to the condemnation of lands for public purposes shall apply to the provisions thereof in and so far as applicable."

Amending clause.

Section 4. That section 89-3304, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Acceptance of aid—remaining cost.

"89-3304. **Acceptance of aid—assumption of remaining cost.** Cities, towns and counties may in accordance with

HeinOnline -- 1967 vol. II 849 1967

the provisions of this act accept *funds and property or other assistance, financial or otherwise, from federal, state and other public or private sources for the purpose of aiding the construction and maintenance of water conservation and flood control projects; and cooperate and contract with the state or federal government, or any department or agency thereof, in furnishing assurances and meeting local cooperation requirements of any project involving control, conservation and use of water.*"

Amending clause.

Section 5. That section 89-3306, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Direction of project.

"89-3306. ***Direction of project.*** This act contemplates that the actual direction of the project and the doing of the work in connection therewith is assumed by *either the state or* the federal government and the city, town or county provides and assumes the cost of necessary right of way over and above such contributions in that regard as the federal government may choose to make. Under such limitation all appropriate portions of this act shall apply."

Amending clause.

Section 6. That section 89-3307, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Contribution to right of way and maintenance costs.

"89-3307. **Contributions to right of way costs—agreement to maintain works.** Cities, towns and counties in furtherance of such *water conservation and* flood control projects may accept contributions to enable them to pay for necessary right of way. They may also enter into agreement with the federal government to maintain levees, dikes, or other construction and to do all other acts required by the federal government in maintaining the work when completed."

Amending clause.

Section 7. That section 89-3308, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Street or road fund used.

"89-3308. **Street or road fund used.** The council, board or governing body shall have power to allocate a portion of the street or road fund, as the case may be, for the purpose of acquiring right of way or the *operation and* maintenance of completed projects."

HeinOnline -- 1967 vol. II 850 1967

Section 8. That section 89-3309, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Amending clause.

"89-3309. **Levy of special assessment—apportionment to property benefited.** Any city, town or county that shall establish a *water conservation or* flood control system *or both* pursuant to this act may for the purpose of providing funds for the operation and maintenance thereof levy an annual special assessment against all real property in the area benefiting from such system. *Such special assessment shall be levied against each lot or parcel of land in the benefited area for that portion of the money required which its area bears to the total area of all of the lands to be assessed; or said assessment may, at the option of the governing body of the city, town or county, as the case may be, be based upon the taxable valuation, as stated in the last completed county assessment roll, of the lots or parcels of land exclusive of improvements thereon, within said benefited area, in which case each lot or parcel of land to be assessed shall be assessed with that part of the amount of money required which its taxable valuation bears to the total taxable valuation of all of the lands to be assessed. Provided, however, that where the benefited area lies in more than one county or lies both within a county and also a city or town, the same method of assessment shall be used for each governing body.* Such special assessments for the operation and maintenance of any system authorized by this act shall be levied as are other special improvement levies as required by law."

Levy of special assessment—apportionment to property benefited.

Section 9. **Charges to be levied.** Cities, towns and counties may for the purpose of providing funds for the operation and maintenance of completed projects, fix, maintain and collect fees, rents, tolls and other charges for services rendered or facilities provided. In fixing such rate, fee, toll or rent the governing body shall charge for water furnished for household use, domestic use, irrigation use, industrial use, municipal use and for water used for streamflow stabilization a fee sufficient to pay the proportionate share of the repairs, maintenance and operating expenses as such use bears in economic value, such economic value to be determind by the governing body, to the total economic value of the total use of said facilities of the project or projects. For the benefits received by areas within the boundaries of the project

Charges to be levied.

HeinOnline -- 1967 vol. II 851 1967

or projects for flood prevention, flood control and pollution abatement, the governing body shall determine a reasonable valuation or charge, which valuation or charge shall be certified by them to the county commissioners prior to the time general taxes are levied and assessed and it shall be the obligation of the county commissioners to levy a special assessment as provided for in section 89-3309 against such area or areas sufficient to provide revenues for the repairs, maintenance and operating expenses of the project. For recreation use the governing body shall first determine the share of the costs of operation, repairs and depreciation to be charged against such uses, and from this figure shall subtract the estimated amount of fees and tolls collected for such uses; the deficiency, if any, shall be certified to the county commissioners in the same way as the charges for flood prevention, flood control, etc. and special assessments be levied by the county commissioners in the manner set out herein. The council, board of county commissioners or other governing body shall also have the authority to receive and accept appropriations and contributions from any source of either money or property or other things of value, to be held, used, and applied for the purposes in this act provided.

Amending clause.

Section 10. That section 89-3310, Revised Codes of Montana, 1947, be, and the same is amended to read as follows:

Contracts for use of railroads and highways.

"89-3310. **Contracts for use of railroads and highways.** Any city, town or county may contract with any railroad company or with the state highway commission for the use of railroad or highway rights of way and embankments, and other railroad or highway property which can be utilized by such city, town or county for the purpose of *water conservation or* flood control or protection as part of its *water conservation or* flood control system, *or both,* for any period not exceeding ninety-nine (99) years."

Amending clause.

Section 11. That section 89-3311, Revised Codes of Montana, 1947, be, and the same is amended to read as follows:

Division of work into parts.

"89-3311. **Division of work into parts—separate proceedings for parts.** Whenever any city, town or county has begun a *water conservation or* flood control system, *or both,* under this act, the council, board or other governing body shall have the power to divide the work into parts,

HeinOnline -- 1967 vol. II 852 1967

sections or districts; to omit parts of said work and to contract for any part or section separately and proceed therewith the same as if the entire work or improvements were contracted for, done or made."

Alternative method.

Section 12. *Provisions to provide alternative method.* The provisions of this chapter and the methods of organization of water conservation and flood control projects are hereby declared to be an alternative method to any other method proposed by any law now in existence or hereafter enacted for the creation of such projects and it is hereby declared that no provision hereof shall be amended or repealed by implication or otherwise as being in conflict with any existing law or future enactment unless specifically so declared by the legislature.

Effective immediately.

Section 13. This act is effective on its passage and approval.

Approved: March 2, 1967.

CHAPTER 285

An Act Providing for the Control of Junkyards; Setting Forth Definition; Restricting Location Along Certain Highways; Requiring an Annual License and Fee; Requiring Certain Junkyards to Be Obscured by Means of Natural Objects or Fences; Providing Authority to Purchase or Condemn in Certain Situations; Providing Penalties for Violation; and Repealing Sections 32-4501 Through 32-4512, Revised Codes of Montana, 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Regulation of junkyards.

Section 1. **Purposes of act.** (1) For the purposes of promoting the public safety, health and welfare, and the convenience and enjoyment of public travel, to protect the public investment in public highways, and to preserve and enhance the scenic beauty of lands bordering public highways, it is hereby declared to be in the public interest to regulate and restrict the establishment, operation and maintenance of junkyards in areas adjacent to the interstate and primary systems within this state.

Public nuisances.

(2) The legislative assembly hereby finds and declares that junkyards which do not conform to the requirements of this act are public nuisances.

HeinOnline -- 1967 vol. II 853 1967

Definitions. "Interstate system."

Section 2. **Definitions.** As used in this act only:

(1) "Interstate system" means that portion of the national system of interstate and defense highways located within this state, as officially designated, or as may hereafter be so designated by the state highway commission and approved by the secretary of transportation pursuant to the provisions of title 23, United States Code, "Highways."

"Primary system."

(2) "Primary system" means that portion of connected main highways, as officially designated, or as may hereafter be so designated, by the commission and approved by the secretary of transportation, pursuant to the provisions of title 23, United States Code, "Highways."

"Junk."

(3) "Junk" means old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber debris, waste, or junked, dismantled, or wrecked automobiles, or parts thereof, iron, steel and other old or scrap ferrous or nonferrous material.

"Junkyard."

(4) "Junkyard" means any establishment or place of business which is maintained, operated or used for storing, keeping, buying or selling junk; or for the maintenance or operation of an automobile graveyard; or a garbage dump or sanitary fill.

"Automobile graveyard."

(5) "Automobile graveyard" means any establishment or place of business which is maintained, used or operated for storing, keeping, buying or selling wrecked, scrapped, ruined or dismantled motor vehicles or motor vehicle parts.

Licensing.

Section 3. **License required.** No person shall establish, operate or maintain a junkyard, any portion of which is within one thousand (1,000) feet of the nearest edge of the right-of-way of any interstate or primary highway, without obtaining a license from the commission.

Fee—term—renewal.

Section 4. **Issuance of license—fee—term—renewal.** The commission shall have the sole authority to issue licenses for the establishment, maintenance and operation of junkyards within the limits herein defined. It shall charge for each such license a fee of twenty-five dollars ($25) payable annually in advance. All licenses issued under this section shall expire on the January 1, follow-

HeinOnline -- 1967 vol. II 854 1967

ing the date of issue. A license may be renewed from year to year upon paying to the commission the sum of twenty-five dollars ($25) for such renewal. Proceeds from all license fees shall be deposited in the earmarked revenue fund to the credit of the state highway commission and be subject to disbursement on the order of the commission to defray the expense of administering the provisions of this act.

Restrictions as to location.

Section 5. **Restrictions as to location.** No license shall be granted for the establishment, maintenance or operation of a junkyard within one thousand (1,000) feet of the nearest edge of the right-of-way of any highway on the interstate or primary systems except the following:

(1) Those which are screened by natural objects, planting, fences or other appropriate means so as not to be visible from the main traveled way of any such highway, or otherwise removed from sight.

(2) Those located within areas which are zoned for industrial use under authority of law.

(3) Those located within unzoned industrial areas, which areas shall be determined from actual land uses and defined by regulations to be promulgated by the commission.

(4) Those which are not visible from the main traveled way of any such highway.

Section 6. **Junkyards lawfully in existence.** (1) Any junkyard lawfully in existence on the effective date of this act which is within one thousand (1,000) feet of the nearest edge of the right-of-way and visible from the main traveled way of any highway on the interstate or primary systems shall be fenced or screened, if feasible, by the commission at locations on the highway right-of-way or in areas acquired for such purposes outside the right-of-way so as not to be visible from the main traveled way of any such highway.

(2) Notwithstanding any other provision of this act, any junkyard lawfully in existence on October 22, 1965, which does not conform to the requirements of this act and which the United States secretary of transportation finds as a practical matter cannot be screened, shall not be required to be removed until July 1, 1970.

HeinOnline -- 1967 vol. II 855 1967

Screening regulations.

Section 7. **Regulations governing screening.** The commission may promulgate rules governing the materials to be used in, and the location, planting, construction and maintenance of screening or fencing required by this act.

Acquisition of land to provide screening.

Section 8. **Authority to acquire interest in land for screening and removal of junkyards.**

(1) When the commission determines that it is in the best interests of the state, it may acquire such lands or interests in lands as may be necessary to provide adequate screening.

(2) When the commission determines that the topography of the land adjoining the highway will not permit adequate or economically feasible screening, it may acquire by gift, purchase, exchange or condemnation such interests in lands as may be necessary to secure the relocation, removal or disposal of junkyards which were either:

(a) Lawfully in existence on October 22, 1965; or

(b) Lawfully along any highway made a part of the interstate or primary systems on or after October 22, 1965, and before January 1, 1968; or

(c) Lawfully established on or after January 1, 1968.

(3) The commission shall pay just compensation to the owner for the relocation, removal or disposal of any such junkyard.

Legal remedy.

Section 9. **Injunction.** The commission may apply to the district court for the county in which is located any junkyard not conforming to the requirements of this act for an injunction to abate such nuisance.

Agreements with U.S.

Section 10. **Agreements with the United States.** The commission may enter into agreements with the United States secretary of transportation as provided in title 23, United States Code, relating to the control of junkyards in areas adjacent to the interstate and primary systems, and take action in the name of the state to comply with the terms of such agreements.

Interpretation.

Section 11. **Interpretation.** Nothing in this act shall be construed to abrogate or affect the provisions of any lawful ordinance, regulation or resolution which are more restrictive than the provisions of this act.

HeinOnline -- 1967 vol. II 856 1967

Section 12. **Severability clause.** It is the intent of the legislative assembly that if a part of this act is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this act is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications. Severability clause.

Section 13. **Repeal.** Sections 32-4501 through 32-4512, Revised Codes of Montana, 1947, are repealed. Repealing clause.

Approved: March 2, 1967.

CHAPTER 286

An Act Providing for the Acquisition of Land for the Restoration, Preservation and Enhancement of Scenic Beauty Within and Adjacent to Federal-Aid Highways.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. **Purposes of act.** (1) To promote the safety, convenience and enjoyment of travel on, and protection of the public investment in the highways of this state. Acquisition of land for purpose of establishing scenic beauty along federal-aid highways.

(2) To restore, preserve and enhance scenic beauty within the right-of-way of and adjacent to such highways.

(3) To entitle the state to receive and expend the three per centum (3%) nonmatching funds from the United States pursuant to the provisions of title 23, United States Code.

Section 2. The state highway commission is authorized to expend funds apportioned to the state under Public Law 89-285, Title III, Section 301 (a), October 22, 1965, 79 Statute 1032, for the following purposes: Use of funds —purpose.

(a) For landscape and roadside development within the rights-of-way of federal-aid highways of this state;

(b) For acquisition of interests in and improvement of strips of land necessary for the restoration, preservation, and enhancement of scenic beauty adjacent to such highways; and

HeinOnline -- 1967 vol. II 857 1967

(c) For acquisition and development of publicly owned and controlled rest and recreation areas and sanitary and other facilities within or adjacent to federal-aid highway rights-of-way reasonably necessary to accommodate the traveling public.

Interest acquired.

Section 3. **Extent of interest acquired.** The commission may acquire the fee simple or any lesser estate or interest as determined by the commission to be reasonably necessary to accomplish the purposes of this act. Such acquisition may be made by gift, purchase, or exchange.

Expenditure of funds.

Section 4. **Expenditure of funds.** The commission shall expend only nonmatching funds authorized under the provisions of section 319 (b) of the Federal Highway Beautification Act of 1965, as amended, in carrying out the authority granted by this act.

Effective date.

Section 5. This act shall be effective on and after July 1, 1967.

Approved: March 2, 1967.

CHAPTER 287

An Act to Provide for the Zoning by the Legislature of Certain Lands Adjacent to the Interstate and Primary System Highways as Commercial and for Zoning and Rezoning in Certain Cases by the Boards of County Commissioners, or Through Their Authority in Accordance with Presently Existing or Hereafter Enacted Statutes; to Provide That the Zoning Hereby Effected Shall Not, in Itself, Affect any Taxes Levied Against Real Property or Any Assessment or Assessment Classification; to Provide for the Control of Outdoor Advertising Adjacent to the Interstate and Primary Systems; to Provide for the Administration of Such Outdoor Advertising Controls; All in Conformity with the Federal Highway Beautification Act of 1965; and Containing a Severability Clause.

Be it enacted by the Legislative Assembly of the State of Montana:

Policy.

Section 1. **Declaration of policy.** The legislature recognizing the public investment in highways and in

HeinOnline -- 1967 vol. II 858 1967

justification of these expenditures, particularly the cost of maintenance which is borne wholly by state funds, finds and declares that it is necessary to promulgate a public policy of state zoning with uniform application adjacent to the interstate and primary systems within this state to promote their maximum utilization by encouraging the development of roadside businesses to serve the needs and pleasures of the traveling public, as well as to stimulate tourism, commerce, and for purposes of planning the general growth of the state's economy. Further, desiring to insure reasonable compliance with the Highway Beautification Act of 1965, it is the intention of the legislature in this act to provide a statutory basis for the regulation of outdoor advertising consistent with the public policy relating to areas adjacent to the interstate and primary systems as declared herein and by congress in title 23, United States Code, "Highways."

Definitions.

Section 2. **Definitions.** As used in this act:

"Interstate system."

(a) "Interstate system" means that portion of the national system of interstate and defense highways located within this state, as officially designated, or as may hereafter be so designated, by the state highway commission, and approved by the secretary of commerce or secretary of transportation, pursuant to the provisions of title 23, United States Code.

"Primary system."

(b) "Primary system" means that portion of connected main highways, as officially designated, or as may hereafter be so designated, by the state highway commission, and approved by the secretary of commerce or secretary of transportation, pursuant to the provisions of title 23, United States Code.

"Sign" or "outdoor advertising."

(c) "Sign" or "outdoor advertising" means an outdoor sign, display, light, device, figure, painting, drawing, message, plaque, poster, billboard, or other thing which is designed, intended or used to advertise or inform, any part of the advertising or informational contents of which is visible from any place on the main-traveled way of the interstate or primary systems.

"Erect."

(d) "Erect" means to place, construct, create, or bring into being a sign, display or device, but does not include changing copy upon, or the repair or replacement of, an existing legal sign, display or device.

"Maintain."

(e) "Maintain" means to allow to exist.

HeinOnline -- 1967 vol. II 859 1967

"Unzoned commercial or industrial area."

(f) "Unzoned commercial or industrial area" means an area as defined and determined under section 5.

"Municipality."

(g) "Municipality" means an incorporated city, town or village, but does not include counties, townships, or other rural areas.

Limitations on outdoor advertising.

Section 3. **Limitations on outdoor advertising.** Subject to the provisions for the removal of nonconforming signs and the payment of just compensation therefor, contained in sections 8 and 9 herein, no sign shall, after January 1, 1968, be erected or maintained within six hundred sixty (660) feet of the nearest edge of the right-of-way and visible from the main-traveled way of any highway which is a part of the interstate or primary system in this state, except the following:

(a) Official signs, including informational or directional signs regarding telephone service, emergency telephone signs, buried or underground cable markers, above ground cable closures, and directional signs and notices, which shall include, but not be limited to, signs and notices pertaining to natural wonders, scenic and historic attractions, as authorized or required by law, subject to national standards to be promulgated by the secretary of commerce or the secretary of transportation.

(b) Signs advertising the sale or lease of property upon which they are located.

(c) Signs advertising activities conducted, services rendered, goods sold, stored, produced or mined, or the name of the enterprise on the property upon which they are located.

(d) Signs in areas which are now or hereafter zoned industrial, commercial, or the like, under section 4 or otherwise, subject to the regulations set forth in section 6 concerning size, lighting and spacing.

(e) Signs in unzoned commercial or industrial areas, which now or hereafter qualify as such, as defined in, and determined under section 5, subject to the regulations set forth in section 6 concerning size, lighting and spacing.

Commercial areas.

Section 4. **Areas hereby zoned commercial.**

(a) The legislature, to the extent hereinafter provided, and to effectuate the declared purposes of this act,

HeinOnline -- 1967 vol. II 860 1967

hereby zones all of the following described lands located outside of municipalities and lying within six hundred sixty (660) feet of the nearest edge of the right-of-way of any highway which is part of the interstate and primary system, as commercial, effective as of the effective date of this act:

(1) For a distance of ten (10) miles directly along, and without deviation from, the routes thereof outside of and beyond the corporate limits of municipalities of the first class as defined in section 11-201, R.C.M. 1947;

(2) For a distance of five (5) miles directly along, and without deviation from, the routes thereof outside of and beyond the corporate limits of municipalities of the second class as defined in section 11-201, R.C.M. 1947;

(3) For a distance of five (5) miles directly along, and without deviation from, the routes thereof outside of and beyond the corporate limits of municipalities of the third class as defined in section 11-201, R.C.M. 1947;

(4) For a distance of three (3) miles directly along, and without deviation from, the routes thereof outside of and beyond the corporate limits of municipalities classified as towns in section 11-201, R.C.M. 1947;

(5) For a distance of three (3) miles directly along, and without deviation from, the routes thereof outside of and beyond the limits of unincorporated cities or towns.

(6) For a distance of five (5) miles outside of and beyond the intersection of said highways, or of the intersections of said highways with state secondary system highways, directly along, without deviation from, the routes of all such highways from the point of intersection; and

(7) For a distance of five (5) miles directly along and without deviation from, any interstate highway in both directions from any interchange located thereon.

Exceptions to zoning.

The zoning, which is effected hereby, is subject to the exceptions specified in subsection (b) and to zoning by the several boards of county commissioners, or under their authority, as provided in subsection (e).

Lands not so zoned.

(b) **Lands not so zoned.** No lands are hereby zoned commercial, as aforesaid, which are:

HeinOnline -- 1967 vol. II 861 1967

(1) Within five hundred (500) feet of any building used primarily as a residence, unless the owner of the building consents in writing to the particular commercial use or uses to be made of such lands;

(2) In, or within five hundred (500) feet of, any official park, garden, or forest preserve, publicly owned, controlled, and maintained, or within five hundred (500) feet of a church or school;

(3) In, or within five hundred (500) feet of, any officially designated historical battlefield, or within five hundred (500) feet of any museum, publicly owned, controlled and maintained;

(4) In, or within five hundred (500) feet of, any official picnic grounds or swimming beach, publicly owned, controlled, and maintained, or any golf course, publicly or privately owned or maintained;

(5) In, or within five hundred (500) feet of, any safety rest or recreation area, publicly owned, controlled, and maintained pursuant to section 319 of title 23 of the United States Code;

(6) Within five hundred (500) feet of any sanitary or other facility for the accommodation of the motorist, publicly owned, controlled, and maintained pursuant to section 319 of title 23 of the United States Code;

(7) In, or within five hundred (500) feet of, any strip of land, an interest in which has been acquired by this state for the restoration, preservation, or enhancement of scenic beauty, and which is publicly controlled and maintained, pursuant to section 319 of title 23 of the United States Code;

(8) Specifically zoned noncommercial or nonindustrial under the authority of presently existing zoning statutes or zoning statutes hereafter enacted in this state.

Rezoning.

The foregoing provisions of this subsection shall be so interpreted as to protect the uses, activities and features above specified, whether now in existence or hereafter established. In addition, any area zoned commercial, as hereinbefore provided, which is otherwise inappropriate for the commercial uses specified in subsection (c) shall be promptly rezoned in such a manner as to prohibit such uses therein, as provided in subsection (e), but subject to

HeinOnline -- 1967 vol. II 862 1967

the protection of agricultural activities and private residential uses as therein specified.

Permitted uses of commercial zone.

(c) **Permitted uses.** The following uses and activities, subject to the regulations specified in subsection (d) concerning reasonable zoning regulations by the several boards of county commissioners, shall be permitted in areas zoned as commercial under this section.

(1) Agricultural, grazing, ranching, horticulture uses and activities, and the growing of timber, and all other uses and activities reasonably or customarily related thereto, or generally permitted in areas zoned for agriculture, grazing, ranching, or the like (herein collectively referred to as "agricultural activities");

(2) Buildings used for private residences;

(3) Motels and hotels;

(4) Restaurants and similar establishments serving prepared foods on-premise;

(5) Grocery stores;

(6) Gasoline stations;

(7) Sporting goods stores;

(8) Golf clubs and courses;

(9) Agricultural produce stands;

(10) Resorts, and recreational facilities reasonably related to the topography and nature of the land;

(11) Outdoor advertising, whether on-premise or off-premise and regardless of its content; and

(12) Such other uses and activities as the several boards of county commissioners may in their discretion deem suitable therein.

Zoning and building regulations.

(d) **Zoning and building regulations.** Outdoor advertising shall be subject to the regulations specified in section 6 concerning size, spacing and lighting and to none other. All other uses and activities specified in subsection (c), except the agricultural activities and private residential uses aforesaid, shall be subject to such reasonable regulations as may be enacted by the several boards of county commissioners, or under their authority, in the

HeinOnline -- 1967 vol. II 863 1967

manner provided by presently existing or hereafter enacted planning and zoning statutes.

Rezoning by counties.

(e) **Rezoning by counties.** The several boards of county commissioners, or those acting under their authority, in accordance with presently existing or hereafter enacted planning or zoning statutes, are hereby authorized to rezone any commercial zone or part thereof, hereby created, in accordance with applicable zoning principles, in either a more or less restrictive manner; provided, that no restrictive rezoning shall prohibit the agricultural activities and private residential uses aforesaid. In so acting, such boards, or those acting under their authority, shall utilize their presently existing or hereafter authorized planning and zoning procedures. Nothing in this section shall affect any authority of any political subdivision to zone lands not zoned or rezoned by the legislature hereunder.

Zoning principles.

(f) Zoning principles. The zoning principles which are relevant to land-use planning and zoning outside of municipalities and which govern in this state are as follows:

(1) Lands, whether vacant or used or not, shall be so zoned as to permit the uses thereof which are appropriate thereto, and to prohibit the uses thereof which are inappropriate thereto.

(2) The present and future needs of the economy of the state for a particular kind of activity and the convenience which it would afford to the citizenry can in themselves render some lands appropriate therefor which might otherwise be inappropriate therefor.

(3) Zoning shall not, contrary to the desires of the affected parties, be unreasonably discriminatory as between the owners of substantially similar parcels of land to similar uses.

(4) Agricultural, horticultural, grazing, and ranching uses and purposes, and the growing of timber, shall always be deemed appropriate upon the lands herein zoned and all other activities specified in subsection (c) shall also be deemed appropriate for the lands herein zoned and lands having a population of low density except where such lands are of uncommon natural beauty, and except as provided in subsection (b).

HeinOnline -- 1967 vol. II 864 1967

In zoning as aforesaid, the legislature has complied with and duly considered its said zoning principles in light of the developing economy, the desirability of lessening commercial congestion within municipalities, the desirable trend towards decentralization of commercial activities, the increasing needs of the motoring public, the economic necessity confronting businesses both inside and outside of municipalities of advertising to the motoring public, and the public interest in protecting areas of uncommon natural beauty.

Effect on taxation.

(g) **Effect on taxation.** The zoning and rezoning effected and authorized by this section shall not in itself affect any taxes levied against real property or any assessment qualification, but actual increases in value of any parcel of land by reason of the construction or erection of a building or structure thereon shall be taken into account in thereafter assessing the value thereof and in levying any ad valorem tax thereon.

Future existing uses.

(h) **Future existing uses.** The commercial zoning affected by this section shall be without prejudice to the right of the legislature hereafter to rezone and further rezone. The legislature further declares its intent to periodically review and, when deemed necessary, to modify or otherwise alter the zoning established by this section based on considerations of economic, physical, social, governmental and other conditions relating to the development of the state. Any sign, display or device used for outdoor advertising in any such commercial zone, which shall become illegal by reason of zoning by a board of county commissioners under subsection (e), or rezoning by the legislature, as herein provided, shall be required to be removed or brought into compliance as provided in section 8.

Unzoned areas.

Section 5. **Unzoned areas.** Unzoned commercial and industrial areas are defined for the purposes of this act as follows:

"Unzoned commercial or industrial area."

(a) **Definition.** An "unzoned commercial or industrial area," consistent with and subject to the principles and standards set forth in subsection (f) of section 4, means any of the following unzoned areas adjacent to an interstate or primary highway:

(1) All land on the same side of the highway as, and within one thousand (1,000) feet of, any commercial or

HeinOnline -- 1967 vol. II 865 1967

industrial activity other than outdoor advertising, measured from the boundaries of the land used or occupied by such activity, including its parking, storage and service areas, its driveways, and its established front, rear and side yards constituting an integral part of such activity, except land within three hundred (300) feet of a building used primarily as a residence without the consent of the owner thereof;

(2) All land on the other side of the highway which is directly opposite from, and of the same dimensions as, any area defined under the preceding paragraph, to the extent that such land is appropriate for outdoor advertising;

(3) All land within two hundred (200) feet of the nearest edge of the right-of-way of the highway, measured perpendicularly to such edge, to the extent that such land is traversed by a railroad right-of-way and is appropriate for outdoor advertising;

(4) All pockets of land lying between any commercial or industrial areas (whether so zoned or whether unzoned as defined in this subsection) which are not more than one thousand (1,000) feet apart, to the extent that such land is appropriate for outdoor advertising, and

(5) In addition, pursuant to the exercise of an informed discretion, all other unzoned lands appropriate for outdoor advertising which are determined to be unzoned commercial or industrial areas by any board of county commissioners.

Determinations and redeterminations.

(b) **Determinations and redeterminations.** The several boards of county commissioners shall determine the additional unzoned commercial or industrial areas provided for by paragraph (5) of subsection (a), and shall also redetermine unzoned commercial and industrial areas defined under paragraphs (2, (3), and (4) thereof to be noncommercial and nonindustrial unzoned areas to the extent that same are not appropriate for outdoor advertising. In so acting such boards shall utilize the procedures authorized in subsection (e) of section 4, and shall apply the zoning principles set forth in subsection (f) of section 4.

Regulations—customary usages.

Section 6. **Regulations; customary usages.** Subject to the provisions for the removal of nonconforming signs

HeinOnline -- 1967 vol. II 866 1967

and the payment of just compensation therefor, contained in sections 8 and 9 herein, and after January 1, 1968, signs subject to this act, but permitted under subsections (d) and (e) of section 3, shall comply with the regulations of this section governing the size, lighting and spacing thereof, which regulations are consistent with customary usages of this state.

(a) Regulations as to size.

Regulations as to size.

(1) The maximum area of a sign face shall be six hundred fifty (650) square feet, including border and trim, but not supports.

(2) In the case of double-faced, back-to-back and v-type signs, said size limitation shall be six hundred fifty (650) square feet, applicable to each separate face.

(b) Regulations as to lighting.

Regulations as to lighting.

(1)) No revolving or rotating beam of light simulating an official emergency device shall be permitted. Signs with flashing red, green or amber incandescent lights shall not be permitted, except in illuminated signs giving such public service information as time, date, temperature or direction.

(2) External lighting, such as floodlights, slimline and gooseneck reflectors, shall be permitted, provided that it is shielded so as to prevent the direction of rays of light to any part of the main-traveled way.

(3) No lighting shall interfere with the effectiveness of any official traffic control device or official warning sign.

(c) Regulations as to spacing.

Regulations as to spacing.

(1) Within municipalities, signs shall be erected and maintained in conformity with any applicable building codes and ordinances relating to spacing.

(2) Outside of municipalities, no sign shall be erected adjacent to a limited access highway within five hundred (500) feet, nor adjacent to a nonlimited access highway within five hundred (500) feet, of an existing off-premise sign unless separated therefrom by a building, structure, highway or roadway.

HeinOnline -- 1967 vol. II 867 1967

(3) Neither inside nor outside of municipalities shall any sign be erected or maintained in such a location as to prevent the driver of a vehicle from having an effective view of any official traffic control device applicable to him or of approaching, merging or intersecting traffic within five hundred (500) feet of such sign.

(4) For the purposes of the spacing regulations aforesaid, double-faced, back-to-back, and v-type signs shall be considered as a single sign.

Legislative finding.

(d) **Legislative finding.** The legislature has conducted hearings and received evidence as to customary usage in outdoor advertising in this state, and, based thereon, and upon its own knowledge thereof, does hereby find and determine that the regulations in this paragraph set forth as to size, lighting and spacing are consistent with customary usage in this state.

Permits.

Section 7. **Permits.** After January 1, 1968, no private off-premise sign shall be maintained without a permit. Applications for permit shall be made to the state highway commission or, within municipalities, to the municipal authority designated by its legislative body on forms furnished by said commission, and calling for reasonable information, including a statement that the owner or occupant of the land in question has consented to the erection or maintenance of the sign thereon, and shall be accompanied by a fee in accordance with the following schedule:

(a) Fifty cents ($.50) if the advertising area does not exceed fifty (50) square feet;

(b) One dollar ($1) if such area exceeds fifty (50) but does not exceed three hundred (300) square feet;

(c) Two dollars ($2) if such area exceeds three hundred (300) square feet.

Permits shall be for the calendar year, shall be assigned a permanent number, and shall be renewed annually upon payment of said fee for the new year without the filing of a new application. Fees shall not be prorated for fractions of the year. Two (2) permits shall be required for a double-faced, back-to-back, or v-type sign. Advertising copy may be changed at any time without the payment of an additional fee.

HeinOnline -- 1967 vol. II 868 1967

The commission or municipal authority shall issue a permit for the sign covered by application duly made as aforesaid, unless it is in violation of this act and, upon the initial issuance of a permit, shall also issue a permanent identification tag not larger than six (6) square inches, carrying the permit number, which tag the permittee shall affix to the sign. Notwithstanding the foregoing, and despite any such violation, a permit and identification tag shall be issued for any sign in existence on the effective date of this act and the permit shall thereafter be renewed for the periods of time prescribed in section 8.

A permit may be revoked after hearing upon thirty (30) days' notice if the state highway commission finds that any statement made in the application therefor was false or misleading or that the sign covered thereby is not in good general condition and in a reasonable state of repair, or is otherwise in violation of this act, provided that such false or misleading information has not been corrected and that the sign has not been brought into compliance with this act within thirty (30) days after written notification thereof.

Removal of nonconforming signs.

Section 8. **Removal of nonconforming signs.** Any sign lawfully in existence along the interstate system or the primary system on October 22, 1965, and which is not now in conformity with the provisions contained herein shall not be required to be removed until July 1, 1970. Any other sign lawfully erected which does not on January 1, 1968, or at any time thereafter, conform to this act, shall not be required to be removed until the end of the fifth year after it becomes nonconforming.

Compensation for removal of signs.

Section 9. **Compensation for removal of signs.** The state highway commission is directed to acquire by purchase, gift, or condemnation and shall pay just compensation when and insofar as signs are required to be removed by this act, as follows:

(a) Any such removal, by whomever effected, shall be deemed a taking and appropriation by this state of the following:

(1) From the owner of such sign: all right, title, and interest in such sign, and in his leasehold, license or other interest, including purely contractual interests, in or related to the land; and

HeinOnline -- 1967 vol. II 869 1967

(2) From the owner of the real property on which the sign is located: the right to erect and maintain the sign thereon, whether or not a contractual arrangement for the erection and maintenance of such sign exists.

(b) In cases of purchase, compensation shall be paid in the amount and at the time mutually agreed upon. In cases of condemnation, compensation shall be paid in the amount computed as aforesaid, and the person or persons entitled thereto shall have the same rights in respect to the time of payment, procedures, and resort to the courts of this state as those of a record owner whose fee in lands has been condemned and taken for highway right-of-way.

(c) In addition, the state highway commission may voluntarily purchase from any sign owner or landowner the rights, titles, interests and elements of value aforesaid prior to the time when the sign's removal is required by this act, or whether or not its removal is required by this act, upon such terms as to price, removal, date of removal, and otherwise, as are mutually agreeable to it and to the owners of the sign and land.

(d) Notwithstanding anything to the contrary contained herein no compensation shall be paid with respect to any sign erected after the passage and approval of this act, which on January 1, 1968, shall not be in conformity with the provisions contained herein.

Unlawful advertising.

Section 10. **Unlawful advertising.** Any advertising sign which violates the provisions of this act is hereby declared to be illegal. Subject to sections 8 and 9, the state highway commission shall give thirty (30) days' notice, by certified mail, to the owner thereof to remove same if it is a prohibited sign or cause it to conform to regulations if it is an authorized sign. If the owner fails to act within thirty (30) days as required in the notice, the state highway commission shall proceed to cause the removal of the sign under section 11 at the owner's expense.

Enforcement.

Section 11. **Enforcement.** The state highway commission shall enforce the provisions of this act through the remedy of injunction or other appropriate legal proceedings, and shall not act except through such proceedings. Neither the state highway commission nor any other agency nor political subdivision of this state shall, by plantings or otherwise, obstruct the view, or in any other

HeinOnline -- 1967 vol. II 870 1967

way interfere with the effectiveness of any sign legally in place under the provisions of this act.

Agreements with U. S.

Section 12. **Agreements with the United States.** The state highway commission is hereby authorized and directed in behalf of this state to seek agreements with the secretary of commerce or the secretary of transportation as to the matters specified for agreement in subsection (d) of section 131 of title 23, United States Code. Said commission's authority so to act is hereby limited, consistent with constitutional principles, to seeking and if possible making agreements embodying the provisions and only the provisions of sections 5 and 6, on the basis that they are in conformity with said section 131.

If such agreement or agreements cannot be achieved, the attorney general of this state shall promptly initiate proceedings under the provisions of said section 131 with respect to hearings, stay-of-penalties, and judicial review in order to resolve the disagreement by judicial determination. He shall also initiate such proceedings in the event of a determination to withhold any funds from this state for any alleged failure of this state to comply with any provision of said section 131, in order to obtain a judicial determination of whether this act provides effective control of outdoor advertising in conformity with said section 131.

Guarantee against loss of funds.

Section 13. **Guarantee against loss of funds.** It is the overriding intent of this act, while asserting the rightful independence of this state in regard to the regulation of land usage within its borders, to ensure in all events against the withholding of any federal-aid highway funds from this state under the Federal Highway Beautification Act of 1965. Accordingly, in the event that a United States district court for this state or, in case of further appeal or review, the United States court of appeals or supreme court should hold any part of this act, or any action taken hereunder, to be in noncompliance with said federal act, the state highway commission shall, when all possibilities of review have been exhausted, promulgate such regulations as are minimally necessary to avoid the loss of any such funds, which regulations shall govern to the extent of any inconsistency between them and this act and shall be retroactively effective from January 1, 1968, if necessary to achieve the objective of

HeinOnline -- 1967 vol. II 871 1967

this section, and until modified or superseded by further action by the legislature. Such regulations may suspend or supersede any provision of this act or any action taken hereunder, including any zoning action, but only to the extent necessary to achieve the objective of this section. In so acting the state highway commission shall be guided by and conform to the judgment and instructions of the highest court to rule on this act's compliance or not, and, in the case of the two (2) matters specified for agreement with the secretary of commerce or transportation in subsection (d) of section 131 of said title 23, by the position of such secretary to the extent that it may not have been set aside, modified or disapproved by such court.

Congressional action or nonaction.

Section 14. **Congressional action or nonaction.** In the event that the congress should fail prior to January 1, 1970, to make an appropriation for compensation purposes in such an amount that this state's share thereof will be sufficient to pay seventy-five percent (75%) of the compensation provided for in section 9, to the extent payable under the Highway Beautification Act of 1965, and as estimated by the state highway commission, this act shall on January 1, 1970, become automatically null and void. In any event, if at any time in the future congress should amend section 131 of title 23, United States Code, or whatever law might then provide for federally required control of signs by the several states, in such manner as to no longer require control of signs in areas adjacent to the primary system, or any part or parts thereof, this act shall automatically be deemend amended as of the effective date of such congressional action in such manner that it will thenceforth in no way whatsoever control, restrict, regulate, or in any way affect the erection or maintenance or signs in areas adjacent to the primary system, or to such part or parts thereof; provided, however, that nothing herein shall diminish the rights of any sign owner to compensation under section 9 for signs which may theretofore have been removed from areas adjacent to the primary system.

Repealing clause.

Section 15. **Repeals.** All statutes and regulations promulgated governing outdoor advertising adjacent to the federal interstate and primary highway systems are hereby repealed.

Severability clause.

Section 16. **Severability clause.** It is the intent of the legislative assembly that if a part of this act is in-

HeinOnline -- 1967 vol. II 872 1967

valid, all valid parts that are severable from the invalid part remain in effect. If a part of the act is invalid in one (1) or more of its application, the part remains in effect in all valid applications that are severable from the invalid applications.

Approved: March 2, 1967.

CHAPTER 288

An Act to Provide for the Removal and Disposal of Abandoned Motor Vehicles and for Related Purposes.

Be it enacted by the Legislative Assembly of the State of Montana:

Prohibition against parking or leaving vehicles on public or private property.

Section 1. **Prohibition against parking or leaving vehicles on public or private property.** No vehicle shall be parked or left standing upon the right of way of any public highway, or city street, or upon any state, county or city property for a period longer than five (5) days.

Section 2. **Taking vehicle into custody.** (1) The following law enforcement agencies may take into custody any motor vehicle found abandoned for a period of five (5) days or more on any public highway, or city street, or public property.

(a) The Montana highway patrol if the vehicle is upon the right of way of any public highway other than county road.

(b) The sheriff of the county if the vehicle is upon the right of way of any county road or private property within the county.

(c) The city police if the vehicle is upon a city street within the city.

Enforcement.

(2) The Montana highway patrol, sheriff of the county, or the city police may use its, or his personnel, equipment and facilities for the removal and preservation of the vehicle, or may hire other personnel, equipment and facilities for those purposes.

Notice to owner.

Section 3. **Notice to owner.** (1) Within seventy-two (72) hours after any vehicle is removed and held by or at the direction of the Montana highway patrol or

HeinOnline -- 1967 vol. II 873 1967

the city police, they shall notify the sheriff of the county in which the vehicle was located at the time it was taken into custody and the place where the vehicle is being held. In addition the Montana highway patrol or the city police shall furnish the sheriff a complete description of the vehicle to include year, make, model, serial number and license number, if available, any costs incurred to that date in the removal, preservation and custody of the vehicle, and any available information concerning its ownership.

Location of owner.

(2) The sheriff shall make reasonable efforts to ascertain the name and address of the owner, lien holder, or person entitled to possession of the vehicle. If such name and address are ascertained, the sheriff shall notify such owner and lien holder or person of the location of the vehicle.

(a) If the vehicle is registered in the office of the registrar of motor vehicles of this state, notice shall be deemed given when a registered or certified letter addressed to the registered owner of the vehicle and lien holder, if any, at the latest address shown by the records in the office of the registrar, return receipt requested and postage prepaid thereon, is mailed at least thirty (30) days before the vehicle is sold as hereinafter provided.

(b) If the identity of the last registered owner cannot be determined, or if the registration contains no address for the owner; or if it is impossible to determine with reasonable certainty the identity and addresses of all lien holders, notice by one (1) publication in one (1) newspaper of general circulation in the county where the motor vehicle was abandoned shall be sufficient to meet all requirements of notice pursuant to this act. Such notice by publication can contain multiple listings of abandoned vehicles. Any such notice shall be within the time requirements prescribed for notice by certified or registered mail and shall have the same contents required for a notice by certified or registered mail.

Reclaiming vehicle.

Section 4. **Reclaiming vehicle.** The owner, lien holder, or person entitled to possession of the vehicle may reclaim it at any time after it is taken into custody and before it is sold. He shall present to the sheriff of the county in which the vehicle was located at the time it was

HeinOnline -- 1967 vol. II 874 1967

taken into custody, satisfactory proof of ownership or right to possession, and pay the costs and expenses incurred in the removal, preservation and custody of the vehicle. He shall not be required to pay storage charges for a period longer than ninety (90) days.

Sale of vehicles not reclaimed.

Section 5. **Sale of vehicle if not reclaimed.** (1) If a vehicle is not reclaimed as provided in the preceding section within thirty (30) days after notification by registered or certified mail or prescribed publication, the sheriff of the county in which it is located at the time it was taken into custody, shall sell it at public auction in the manner provided in sections 93-5824 through 93-5832 of the Revised Codes of Montana, 1947.

(2) After any vehicle has been so sold, the former owner or person entitled to possession has no further right, title, claim or interest in or to the vehicle.

Section 6. **Certificate of sale.** (1) When any vehicle is so sold, the sheriff at the time of the payment of the purchase price, shall execute a certificate of sale in duplicate. He shall deliver the original certificate to the purchaser and retain the copy.

(2) The certificate of sale shall contain the name and address of the purchaser, the date of sale, the consideration paid, a description of the vehicle and a stipulation that no warranty is made as to the condition or title of the vehicle.

Issuing certificate of ownership.

Section 7. **Issuing certificate of ownership.** The registrar of motor vehicles shall issue a certificate of ownership upon presentation by the purchaser of the certificate of sale and payment of the fees required by law.

Transmitting return of sale and balance of proceeds.

Section 8. **Transmitting return of sale and balance of proceeds.** (1) When any vehicle is sold as provided in section 5, the sheriff shall transmit to the registrar of motor vehicles and to the county treasurer a return of sale setting forth a description of the vehicle, the purchase price, the name and address of the purchaser, the costs incurred in the sale and the costs and expenses incurred in the removal, preservation and custody of the vehicle.

(2) With the return of sale, the sheriff shall transmit to the county treasurer the balance of the proceeds of the sale after deducting the costs incurred in the sale,

HeinOnline -- 1967 vol. II 875 1967

and the costs and expenses incurred in the removal, preservation and custody of the vehicle.

(3) Upon receipt of the return of sale and such balance the county treasurer shall file the return in his office and deposit the balance in the county road fund on all vehicles seized by the sheriff or highway patrol. The county treasurer shall transmit to the city treasurer the balance of the proceeds of the sale after deducting the costs incurred in the sale and the costs and expenses incurred in the removal, preservation and custody of vehicles seized by city police, and the city treasurer shall deposit such proceeds in the city street fund.

Penalty for violation.

Section 9. **Penalty for violation and enforcement of provisions.** Any person or persons violating the provisions of this act shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than twenty-five dollars ($25), nor more than three hundred dollars ($300), or by imprisonment in the county jail for not less than five (5) days, nor more than ninety (90) days, or by both fine and imprisonment.

Severability clause.

Section 10. **Severability clause.** The provisions of this act shall be severable and if any of its sections, provisions, exceptions, sentences, clauses, phrases or parts be held unconstitutional or void, the remainder of this act shall continue in full force and effect.

Effective date.

Section 11. This act shall become effective from and after the 1st day of July, 1967.

Approved: March 2, 1967.

CHAPTER 289

An Act Relating to the Judicial Department of the State of Montana; Providing for the Retirement of District Judges and Justices of the Supreme Court, Subject to Thereafter Being Called Into Service for the Performance of Certain Judicial Duties Under the Direction of the Supreme Court and Providing an Allowance of Actual Expenses for Such Service; Defining the Terms Used in This Act; Establishing a Montana Judges' Retirement System; Creating a Montana Judges' Retirement Board; Providing for Payment of the Expense

HeinOnline -- 1967 vol. II 876 1967

of Administering This Act, and for Payments Into the Montana Judges' Retirement Fund; Providing for the Establishment and Enforcement of Rules and Regulations; Requiring Membership in Public Employees' Retirement System and for Payments Thereto by Each Judge Not Heretofore a Member Thereof; Providing a Service Allowance Based on Length of Service; Requiring Payments Into the Montana Judges' Retirement Fund by Deductions From Members' Salaries; Providing for Contributions by the State of Montana, and for Payment Into the Montana Judges' Retirement Fund of One-Quarter of Fees Collected by Clerks of District Court and by the Clerk of the Supreme Court; Specifying Length of Service and Age Requirements Necessary for Retirement; Providing the Method of Computing Retirement Allowance; Providing for a Disability Retirement Allowance and an Involuntary Retirement Allowance: Specifying Penalty Retirement Age and Providing for a Retirement Allowance Forfeiture; Providing for Payments Upon Death; Providing for Monthly Payments of Retirement Allowances, for Exemption From Taxes and Execution, for Nomination of Beneficiary, and for Options Available to Judges Entering Military Service; Providing Certain Optional Methods of Payment of Retirement Allowance; Providing for Transfer of Accounts Dormant for Ten (10) Years; and Providing a Savings Clause Declaring the Provisions of This Act to Be Severable.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. **Defintions.** The following words and phrases as used in this act, unless a different meaning is plainly implied by the context, shall have the following meanings: Definitions.

"Accumulated deductions"—the total of the amounts deducted from the salary of a contributor and paid into the fund, and standing to his credit in the fund, together with the regular interest thereon. "Accumulated deductions."

"Beneficiary"—shall be such person or persons having an insurable interest in his life as he shall nominate by written designation, duly acknowledged and filed with the board. "Beneficiary."

"Retired judge"—any person in receipt of a retirement allowance under this act. "Retired judge."

HeinOnline -- 1967 vol. II 877 1967

"Board." "Board"—the Montana judges' retirement board.

"Penalty retirement age." "Penalty retirement age"—seventy (70) years of age.

"Contributor." "Contributor"—any person who has accumulated deductions in the fund standing to his credit.

"Final salary." "Final salary"—the annual current salary for the office retired from.

"Actuarial equivalent." "Actuarial equivalent"—the accumulated contributions and the present value of the member's state service based on length of service and member's attained age used to provide a life or temporary life income to the legally designated person, based on such person's attained age and sex at the time the option becomes available.

"Fund." "Fund"—the Montana judges' retirement fund.

"Involuntary retirement." "Involuntary retirement"—a retirement not for cause and before retirement age.

"Member's annuity." "Member's annuity"—payments for life derived from contributions made by the contributor.

"Retirement allowance." "Retirement allowance"—the state annuity plus the member's annuity.

"State annuity." "State annuity"—payments for life derived from contributions made by the state of Montana.

Montana judges' retirement system. Section 2. **Montana judges' retirement system.** A retirement system is hereby established for the judges of the district court and justices of the supreme court of the state of Montana.

Retirement board. Section 3. **Montana judges' retirement board.** There is hereby created a Montana judges' retirement board, hereinafter referred to as the "board." The board shall consist of five (5) members who shall be the same persons as those who compose the board of administration of the public employees' retirement system.

Administrative expenses. Section 4. **Administrative expenses.** The expense of the administration of this act, exclusive of the payment of retirement allowances and other benefits, shall be paid by the state of Montana, by appropriation out of the general fund, made on the basis of budgets submitted by the board.

HeinOnline -- 1967 vol. II 878 1967

Payments into fund—investment.

Section 5. **Payments into the Montana judges' retirement fund—investment.** All appropriations made by the state of Montana, all contributions by members of the Montana judges, in the amount hereinafter specified, and all interest on and increase of the investments and moneys under this account shall be paid to the secretary of the public employees' retirement system board (PERS), who shall credit said payments to the Montana judges' retirement fund. Said funds may be co-mingled with funds of the PERS, but shall be earmarked as judges' retirement fund.

Rules and regulations—actuarial data.

Section 6. **Rules and regulations—actuarial data.** The board may establish such rules and regulations as it deems necessary and is charged within the limitations of this act for its proper administration, operation, and enforcement, and shall be the authority under this act for its proper administration, operation, and enforcement and shall be the authority under this act as to the conditions under which persons may be admitted to and continue to receive benefits under the retirement system. It shall keep such data as shall be necessary for actuarial valuation purposes. It shall cause to be made periodic actuarial investigations into the mortality and service experience of the contributors to and the beneficiaries of the fund, and shall adopt for the retirement system one or more mortality tables.

Membership.

Section 7. **Membership.** (a) Any judge or justice who has, previous to the adoption of this act, been a member of the PERS, may elect to remain under that system; such election to be made in writing to the PERS board within three (3) months after the effective date of this act.

(b) Every judge or justice who was in service in either a district court or a supreme court of the state of Montana, prior to July 1, 1967, shall have the option and he may elect to make back payments to the date when he first entered the service of the judiciary. Such back payments may be spread over a period of five (5) years by having the regular payroll deduction of the contributor increased in an amount equal to the total of his back payments divided by sixty (60), which deduction increase shall be credited to such back payments owing, and shall be continued until the full amount of such back payments

HeinOnline -- 1967 vol. II 879 1967

shall have been completed. Any such deduction increase may be anticipated in part or in full by the contributor at any time and must be anticipated in full at the time of retirement before a retirement allowance is granted, and if not so anticipated and paid in full then a member's retirement allowance shall be calculated for the total years and months on which contributions have been made in accordance with section 12 of this act. Every contributor who shall elect to make such back payments shall receive full credit under this act for all contributions made into the fund and for all service credits to which he might thereby be entitled.

Service allowance.

Section 8. **Service allowance.** In computing the length of service of a contributor for retirement purposes, full credit shall be given to each contributor for each year of service rendered to the judiciary including service rendered prior to July 1, 1967, upon complying with the provisions of this act. As soon as practicable, the retirement board shall issue to each original member a certificate certifying the aggregate length of his service prior to July 1, 1967. Such certificate shall be final and conclusive as to his prior service unless thereafter modified by the board upon application of the contributor.

Payments by contributors.

Section 9. **Payments by contributors.** Every member shall be required to contribute into the fund a sum equal to six percent (6%) of his monthly salary, which sum shall be deducted from his salary and credited to his account in the fund.

Contributions by the state of Montana.

Section 10. **Contributions by the state of Montana.** The state of Montana shall monthly contribute to the fund a sum equal to six percent (6%) of the salary of each member of the Montana judiciary retirement system. In addition to the above, three-quarters (¾) of the fees collected under section 25-232, as amended, and section 25-233, as amended, shall be paid into the county treasurer on the first Monday of each month as provided in section 25-203, and the other one-quarter shall be transmitted by the clerk to the secretary of the PERS board on the first Monday of each month, and by him credited to the judicial retirement fund. The fees collected under section 82-503, as amended, shall be by the clerk of the supreme court paid by him, three-quarters (¾) into the state treasury to be credited to the general fund, and one-

HeinOnline -- 1967 vol. II 880 1967

quarter (¼) of which shall be paid by him to the secretary of the PERS board, which shall be credited to the credit of the judicial retirement fund. The full amount of such fund as created and accumulated is hereby set aside to be used exclusively for the purpose of paying the accrued retirement and expenses provided for herein.

Vesting of proportional retirement.

Section 11. **Vesting of proportional retirement.** Any member who has completed at least five (5) years or more service, and has reached the age of sixty-five (65), may retire and receive the proportional retirement allowances provided in section 12.

Retirement allowance.

Section 12. **Retirement allowance.** Upon retirement from service a member shall receive a service retirement allowance which shall consist of the state annuity plus the member's annuity. The member's annuity shall be the actuarial equivalent of his aggregate contributions at the time of retirement and the state annuity shall be in an amount which, when added to the member's annuity, will provide a total retirement allowance of three and one-third percent (3 1/3%) per year of his final salary for the first fifteen (15) years' service, and one percent (1%) per year for each year's service thereafter.

Disability retirement allowance.

Section 13. **Disability retirement allowance.** In case of the total disability of a contributor, permanent in character, regardless of length of service of the contributor, a disability retirement allowance shall be granted the contributor in an amount calculated on the actuarial equivalent of the member's annuity and the state annuity standing to his credit at the time of his disability retirement; provided, that if such total disability is a direct result of any service to the Montana judiciary in line of duty, then such judge or justice who is totally and permanently disabled shall be retired on total retirement allowance of a minimum of one-half (½) of his final salary or the allowance provided in section 12, whichever is greater. In the event of any disability not caused in the line of duty after attaining the age of sixty (60) years, the maximum monthly payment shall be the retirement allowance as provided in section 12.

Involuntary retirement allowance.

Section 14. **Involuntary retirement allowance.** Should a contributor be discontinued from service, not voluntarily, after having completed five (5) years of total service, but before reaching retirement age, he shall, upon filing

HeinOnline -- 1967 vol. II 881 1967

of application in the manner herein provided for retirement, be paid as he may elect as follows:

(a) the full amount of accumulated deductions standing to his credit; or

(b) a member's annuity of equivalent actuarial value to his accumulated deductions standing to his credit, plus the actuarial equivalent of a state annuity having a value equal to the present value of a state annuity then standing to his credit.

Penalty retirement allowance.

Section 15. **Penalty retirement allowance.** Any judge or justice who becomes eligible for retirement hereunder, but fails to make application therefor, prior to his attaining the age of seventy (70) years, shall automatically waive all retirement benefits, and shall receive a return of only such monies equal to the accumulated deduction contributed by him, save and except that any judge or justice, who is over the age of seventy (70) years, at the time of the effective date of this act, or who shall attain such age before the expiration of his term, shall be permitted to serve out the balance of his existing term, without forfeiting said retirement. At the termination of the said existing term, if such member has failed to make application for retirement under this act, he shall automatically waive all retirement benefits hereunder, and shall receive a return of only such monies equal to the accumulated deduction contributed by him.

Refunds when resignation or discharge.

Section 16. **Refunds in case of resignation or discharge.** Where a contributor resigns of his own volition, or is discharged for cause before becoming entitled to a retirement allowance, then the deductions standing to his credit shall be paid to him.

Payments upon death.

Section 17. **Payments upon death.** If the board shall find that a contributor died as a direct and proximate result of injury received in the course of his employment, a retirement allowance shall be paid to his beneficiary. Such retirement allowance shall consist of:

(a) a member's annuity which shall be the actuarial equivalent of the contributor's accumulated deductions standing to his credit; and

(b) the actuarial equivalent of a state annuity which when added to the member's annuity will provide a total annuity equal to the allowance provided for in section 12.

HeinOnline -- 1967 vol. II 882 1967

Payments when death by natural cause.

Section 18. **Payments in case of death from natural cause.**

(a) If the retired judge or justice dies before receiving in payments the present value of his member's annuity and the state annuity as it was at the time of his retirement, the balance shall be paid to his beneficiary.

(b) If a member dies before reaching retirement age, his beneficiary shall be entitled to the actuarial equivalent of the options as provided in section 14.

Monthly payments of retirement allowances.

Section 19. **Monthly payments of retirement allowances.** The retirement allowances granted under the provisions of this act shall be paid in equal monthly installments and shall not be increased, decreased, revoked or repealed unless by act of the legislative assembly of the state of Montana. No retirement allowances can be approved by the board while the member is drawing full compensation as a judge or justice.

Exemption from taxes and execution.

Section 20. **Exemption from taxes and execution.** Any money received or to be paid as a member's annuity, state annuity or return of deductions or the right of any of these, shall be exempt from any state or municipal tax and from levy, sale, garnishment, attachment or any other process whatsoever and shall be unassignable.

Nomination of beneficiary.

Section 21. **Nomination of beneficiary.** Every contributor shall have the authority to name his beneficiary by written designation duly acknowledged and filed with the board.

Service in armed forces.

Section 22. **Service in the armed forces of the United States.** Any member of the Montana judiciary now in or hereafter inducted into the armed forces of the United States, shall have the option:

(a) to continue his payments into the fund; or

(b) allow the board to make his payments for him during such military service, in which event he shall repay the fund the full amount of such payments upon his return to the Montana judiciary, and such repayments must be made within two (2) years after his return to the judiciary provided that a member's service in the armed forces of the United States shall be credited to and made a part of the member's service allowance.

HeinOnline -- 1967 vol. II 883 1967

Fraud—correction of errors.

Section 23. **Fraud; correction of errors.** (a) No person shall knowingly make any false statement, or shall falsify or permit to be falsified any record or records of the retirement system herein established in any attempt to defraud such system.

(b) Should any such change in records fraudulently made or any mistake in records inadverently made result in any contributor or beneficiary receiving more or less than he would have been entitled to had the records been correct, then, on the discovery of such error, the board shall correct such error and shall adjust the payments which shall be made to the contributor or annuitant in such manner that the actuarial equivalent of the benefit to which he was correctly entitled shall be paid.

Any person violating any of the provisions of subsection (a) of this section shall be guilty of a misdemeanor, and, upon conviction, shall be sentenced to pay a fine not exceeding one thousand dollars ($1,000) or suffer imprisonment not exceeding one (1) year, of both, in the discretion of the court.

Duties of retired judges.

Section 24. Every judge or justice receiving retirement pay under the provisions of this act, shall, if physically and mentally able, be subject to call by the supreme court or the chief justice thereof to aid and assist the supreme court or any district court under such directions as the supreme court may give, including the examination of the facts and cases before the court, the examination of authorities cited and the preparation of opinions for and on behalf of the court, which opinions, when and if and to the extent approved by the court, may by the court be ordered to constitute the opinion of such court and such court and such retired judge or justice may, subject to any rule which the supreme court may adopt, perform any and all duties preliminary to the final disposition of cases insofar as not inconsistent with the constitution of the state. Such retired judge or justice when called to service as herein provided shall be reimbursed for his actual expenses, if any, in responding to such call.

Optional retirement allowance.

Section 25. **Optional retirement allowance.** Until the first payment on account of any retirement allowance is made and subject to the conditions that, if he die after retirement and within thirty (30) days from the date upon which his election or changed election is received at

HeinOnline -- 1967 vol. II 884 1967

the office of the retirement board, then said election is void and of no effect, and the death shall be considered as that of a member before retirement. A member or a beneficiary may elect, or revoke or change a previous election prior to the approval of the previous election to receive the actuarial equivalent of his retirement allowance as of the date of retirement, in a lesser retirement, allowance, payable throughout life with one of the following options:

Option 1. Upon his death, his lesser retirement allowance shall be continued throughout the life of and paid to such person, having an insurable interest in his life, as he nominates by written designation duly executed and filed with the board at the time of his retirement.

Option 2. Upon his death, one-half (½) of his lesser retirement allowance shall be continued throughout the life of and paid to such person, having an insurable interest in his life, as he nominates by written designation duly executed and filed with the board at the time of his retirement.

Option 3. Such other benefit or benefits shall be paid, either to the beneficiary or to such other person or persons as he nominates, as, together with such lesser retirement allowance, are the actuarial equivalent of his retirement allowance, and shall be approved by the board.

Severability clause.

Section 26. The provisions of this act are severable, and, if any of its provisions shall be held to be unconstitutional, the decision of the court shall not affect or impair any of the remaining provisions. It is hereby declared to be the legislative intent that this act would have been adopted had such unconstitutional provisions not been included herein.

Dormant accounts.

Section 27. The board may in its discretion transfer the savings account of a member to the pension accumulation fund if the account has been dormant for a period of ten (10) years, provided that no right of the member shall be jeopardized by such transfer and the savings account shall be transferred to the member's name upon subsequent re-entry to membership.

Approved: March 2, 1967.

HeinOnline -- 1967 vol. II 885 1967

CHAPTER 290

An Act Exempting Motor Vehicle Dealers' Motor Vehicle Inventory from Taxation; Providing for the Assessment and Taxation of These Motor Vehicles, at the Time of Their Registration and Licensing, to the Purchasers Thereof; Amending Sections 53-114 and 53-129, R.C.M. 1947, Which Provide for Motor Vehicle Registration and Licensing Requirements, Sections 84-406 and 84-6008, R.C.M. 1947, Which Provide for Taxation of Property on Regular Assessment Dates and Subsequent to Regular Assessment Dates, Respectively, Section 32-3315, R.C.M. 1947, Which Provides for the Imposition of New Car Sales Tax; and Repealing Section 84-6009, R.C.M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 53-114, Revised Codes of Montana, 1947, be amended to read as follows:

Application for registration of motor vehicles and payment of license fees thereon.

"53-114. **Application for registration of motor vehicles and payment of license fees thereon.**

(1) Every owner of a motor vehicle operated or driven upon the public highways of this state shall, for each motor vehicle owned, except as herein otherwise expressly provided, file, or cause to be filed, in the office of the county treasurer wherein such motor vehicle is owned or taxable, an application for registration, or reregistration, upon blank form to be prepared and furnished by the registrar of motor vehicles, executed in quintuplet, which application shall contain:

(a) Name and address of owner, giving county, school district, and town or city within whose corporate limits the motor vehicle is taxable.

(b) Name and address of conditional sales vendor, mortgagee or holder of other lien against said motor vehicle, with statement of amount owing under such contract or lien.

(c) Description of motor vehicle, including make, year model, engine and serial number, manufacturer's model or letter, gross weight, type of body and, if truck, the rated capacity.

(d) In case of reregistration, the license number for the preceding year.

HeinOnline -- 1967 vol. II 886 1967

(e) Such other information as the registrar of motor vehicles may require.

(2) Before filing such application with the county treasurer, the applicant shall submit the same to the county assessor of said county and said county assessor shall enter on said application in a space to be provided for that purpose, the full and true and the assessed valuation of said vehicle for the year for which said application for registration is made.

(3) The applicant shall, upon the filing of said application (1) pay to the county treasurer the registration fee, as provided in section 53-122 and section 53-115, and shall also at such time (2) pay the personal property taxes assessed *or the new motor vehicle sales tax* against said vehicle for the current year of registration (unless the same shall have been theretofore paid for said year) before the application for registration or reregistration may be accepted by the county treasurer. The county treasurer is hereby empowered to make full and complete investigation of the tax status of said vehicle and any applicant for registration or reregistration must submit proof with respect thereto from the tax records of the proper county at the request of the county treasurer.

(4) The amount of taxes on said motor vehicle shall be computed and determined by the county treasurer on the basis of the levy of the year preceding the current year of application for registration or reregistration and such determination shall be entered on the application form in a space provided therefor.

(5) Motor vehicles are hereby declared to be assessable for taxation as of and on the first day of January in each year irrespective of the time fixed by law for the assessment of other classes of personal property, and irrespective of whether or not the levy and tax may be a lien upon real property within the state of Montana, provided that in no event shall any motor vehicle be the subject to assessment, levy and taxation more than once in each year.

(6) The applicant for original registration of any wholly new and unused motor vehicle acquired by original contract after the first day of January of any year shall be required, whenever such vehicle has not been

HeinOnline -- 1967 vol. II 887 1967

otherwise assessed, to pay the motor vehicle sales tax provided by section 53-617, irrespective of whether or not such vehicle was in the state of Montana on the first day of January of such year.

(7) Upon accepting application for registration or reregistration of any motor vehicle which is subject to taxation in this state on January 1 in any year, and upon payment of taxes, the county treasurer shall stamp on said application: 'taxes on this vehicle due January 1 of current year paid by applicant, prior applicant or owner and this vehicle is eligible for registration.'

Upon accepting application for registration of any motor vehicle which was not subject to taxation in this state on January 1 in any year, the county treasurer shall indicate such fact by proper entry on said application.

(8) The registrar of motor vehicles shall have authority to make proper entry on any certificate of title to any motor vehicle respecting payment of taxes in accord with the facts."

Amending clause.

Section 2. That section 53-129, Revised Codes of Montana, 1947, be amended to read as follows:

Foreign vehicles —reciprocal agreements for exemption.

"53-129. **Foreign vehicles used in gainful occupation —reciprocity board may make reciprocal agreements to exempt.** Before any foreign licensed motor vehicle shall be operated on the highways of this state for hire, compensation or profit, or before the owner *and/or user* thereof uses the vehicle *if such owner and/or user is* engaged in gainful occupation or business enterprise, in the state of Montana, including highway work, the owner of such vehicle shall make application to a county treasurer for registration, upon an application form furnished by the registrar of motor vehicles. Upon satisfactory evidence of ownership submitted to such county treasurer, *and the payment of property taxes as is required by sections 84-6008 or 84-406,* the treasurer shall accept the application for registration and shall collect the regular license fee required for the vehicle. The treasurer shall thereupon issue to the applicant a copy of the application entitled 'Owner's Certificate of Registration Receipt' and forward a duplicate copy of certificate of registration to the registrar of motor vehicles. The treasurer shall at the same time issue to the applicant the proper license plates or

HeinOnline -- 1967 vol. II 888 1967

other identification markers, which shall at all times be displayed upon such vehicle, when operated or driven upon roads and highways of this state, during the period of the life of such license. The registration receipt shall not constitute evidence of ownership, but shall only be used for registration purposes. No Montana certificate of title shall be issued for this type of registration. This paragraph shall not be applicable to any vehicle covered by a valid and existing reciprocal agreement or declaration entered into under the provisions of *the laws of Montana.*"

Amending clause.

Section 3. That section 84-406, Revised Codes of Montana, 1947, be amended to read as follows:

Time of assessment—motor vehicles—livestock.

"84-406. **Time of assessment — motor vehicles — livestock.**

(1) The assessor must, between the first Monday of March and the second Monday of July in each year, ascertain the names of all taxable inhabitants, and assess all property in his county subject to taxation, except such as is required to be assessed by the state board of equalization, and must assess such property to the persons by whom it was owner or claimed, or in whose possession or control it was at *12 midnight* of the first Monday of March next preceding, except that such procedure shall not apply to

(a) Motor vehicles which are required by subdivision (2) hereof to be assessed as of the first day of January; but no mistake in the name of the owner or supposed owner of real property renders the assessment thereof invalid.

(b) Livestock being fed in feeding pens or enclosures which may by subdivision (3) of this section be assessed on an average inventory basis. Credits must be assessed as provided in section 84-101, subdivision 6.

(2) The assessor must ascertain and assess all motor vehicles in his county subject to taxation as of January 1 in each year, and the same shall be assessed to the persons by whom owned or claimed, or in whose possession or control such vehicle was at *12 midnight* of the first day of January in each year. *Provided that such tax shall not be assessed against motor vehicles which constitute inventory of motor vehicle dealers as of January 1, but said*

HeinOnline -- 1967 vol. II 889 1967

vehicles, and all other motor vehicles brought into the state subsequent to January 1, as motor vehicle dealer's inventory, shall be assessed to their respective purchasers as of the dates said vehicles are registered by said purchasers, except as otherwise provided by section 32-3315. Goods, wares and merchandise of motor vehicle dealers, other than new motor vehicles, shall continue to be assessed at full and true value as of the first Monday of March.

Nothing herein contained shall relieve the applicant for registration or reregistration of any motor vehicle so assessed or subject to assessment of the duty of paying taxes thereon as a condition precedent to registration or reregistration in the event said taxes have not been paid by any prior applicant or owner in all cases where required to be paid.

(3) The assessed value of livestock being fed in feeding pens or enclosures on the first Monday in March may be computed by adding the value of livestock more than six *(6)* months of age being fed on the last day of each month since the last assessment date and dividing the sum by twelve *(12)*."

Amending clause.

Section 4. That section 84-6008, Revised Codes of Montana, 1947, be amended to read as follows:

Assessment of personal property brought into the state—exceptions.

"84-6008. **Assessment of personal property brought into the state—exceptions.** Any personal property, including livestock, brought, driven or coming into this state at any time during the year *which is used in the state for hire, compensation or profit; or if the owner and/or the user of the property is engaged in gainful occupation or business enterprise in the state; or the property otherwise comes to rest and becomes a part of the general property of the state,* shall be subject to taxation and shall be assessed for all taxes, levied or leviable for that year in the county in which the same shall thus be, in the same manner and to the same extent except as hereinafter otherwise provided, as though such property had been in the county on the regular assessment date; provided that such property has not been regularly assessed for the year in some other county of the state; provided further that nothing herein contained shall be construed into authority to assess or levy *any* tax against any merchant or dealer within this state on goods, wares or merchandise brought into the county to replenish the stock

HeinOnline -- 1967 vol. II 890 1967

of such merchant or dealer, *in addition to the tax levied against the inventory of said merchant or dealer on the regular assessment date;* provided further, that this act shall not apply to motor vehicles brought, driven or coming into this state by any nonresident migratory bona fide agricultural workers temporarily employed in agricultural work in Montana where said motor vehicles are used exclusively for transportation of agricultural workers."

Amending clause.

Section 5. That section 32-3315, Revised Codes of Montana, 1947, be amended to read as follows:

Sales tax on new motor vehicles.

"32-3315. **Sales tax on new *motor* vehicles.**

(1) In consideration of the right to use the highways of the state, there shall be imposed a tax upon all sales of new motor vehicles for which a license is sought and an original application for title is made. *The word motor vehicle as used in this section shall mean automobiles, auto trucks and motorcycles, propelled by their own power, used upon the public highways of the state.* The tax shall be paid by the purchaser when he applies for his original Montana license through the county treasurer.

(2) The sales tax shall be:

(a) One and one-half percent (1½%) of the F.O.B. factory list price or F.O.B. port of entry list price, during the first quarter of the year.

(b) One and one-eighth percent (1⅛%) of the list price during the second quarter of the year.

(c) Three-fourths (¾) of one percent (1%) during the third quarter of the year.

(d) Three-eighths (⅜) of one percent (1%) during the fourth quarter of the year.

(3) In case the manufacturer or importer fails to furnish the F.O.B. factory list price or F.O.B. port of entry list price, the highway commission may use any published price lists.

(4) The proceeds from this tax should be remitted to the state treasurer every thirty (30) days for credit to the *earmarked revenue fund of the state highway account.*

(5) The new vehicle shall not be subject to any other assessment or taxation during the calendar year in which the original application for title is made."

HeinOnline -- 1967 vol. II 891 1967

Repealing clause.

Section 6. That section 84-6009, Revised Codes of Montana, 1947, is repealed.

Effective immediately.

Section 7. This act is effective on its passage and approval.

Approved: March 2, 1967.

CHAPTER 291

An Act Relating to the Montana Nursing Practice Act; Amending Sections 66-1221, 66-1222, 66-1228, 66-1231, 66-1232, 66-1233, 66-1242 and 66-1243, All Revised Codes of Montana, 1947, Providing Definitions of the Practice of Professional Nursing and the Practice of Practical Nursing; Providing a Reduced Period of Practice Pending Licensure for Registered and Practical Nurses; Providing Qualifications for Applications for Certification of Practical Nurses; Providing for Limited Waiver for Practical Nursing Certificates and Providing Penalty for Practicing Practical Nursing Without a License; Repealing Conflicting Acts.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 66-1221, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Purpose.

"66-1221. **Purpose.** In order to safeguard life and health (a) any person practicing or offering to practice professional nursing in this state for compensation or personal gain, shall be required to submit evidence that he or she is qualified so to practice, and shall be licensed as hereinafter provided; and

In order to safeguard life and health (b) any person practicing or offering to practice practical nursing in this state *for compensation or personal gain* shall be required to submit evidence that he or she is qualified so to practice, and shall be licensed as hereinafter provided.

After January 1, 1954, it shall be unlawful for any person to use any title, abbreviation, sign, card, or device to indicate that such person is (a) a registered, professional nurse (b) a licensed practical nurse unless such person

HeinOnline -- 1967 vol. II 892 1967

has been duly licensed under the provisions of this act, and the license of such person shall be valid and in force in compliance with the provisions of this act."

Section 2. That section 66-1222, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows: Amending clause.

"66-1222. **Citation of act—definition of board—identification of board when administering act for professional nursing and for practical nursing—definition of terms.** This act may be cited as the Montana Nursing Practice Act. Citation of act.

The use of the feminine gender shall include the masculine gender and vice versa.

As used in the term or word 'board' means the Montana state board of nursing created by this act, with dual functions (a) in the field of professional nursing and (b) in the field of practical nursing, and irrespective of the number *of* members of the board when functioning in either of said fields. In all matters relating to 'professional nursing' the board shall consist of five (5) members to be qualified and appointed as hereinafter provided. In all matters relating to 'practical nursing' the board shall consist of eight (8) members, five (5) of whom shall be identical with the five (5) member board, and the remaining three (3) members to be qualified and appointed as hereinafter provided. The board of five (5) members may for convenience be referred to as the Montana state board of nursing followed by the words 'professional nursing administration,' and the board of eight (8) members may, for convenience, be referred to as the Montana state board of nursing, followed by the words 'practical nursing administration.' Board of nursing.

The practice of nursing embraces two classes of nursing service and activity, defined, respectively, as follows:

(1) *The practice of professional nursing means the performance for compensation of any act in the observation, care and counsel of the ill, injured or infirm, or in the maintenance of health or prevention of illness of others, or in the supervision and teaching of other personnel, or the administration of medications and treatments as prescribed by a person licensed in this state to prescribe such medications and treatments; requiring substantial specialized* Practice of professional nursing.

HeinOnline -- 1967 vol. II 893 1967

judgment and skill and based on knowledge and application of the principles of biological, physical and social science. The foregoing shall not be deemed to include acts of diagnosis or prescription of therapeutic or corrective measures.

Practice of practical nursing.

(2) *The practice of practical nursing means the performance for compensation in the care of the ill, injured or infirm, of acts selected by and performed under the direction of an R. N., or a person licensed in this state to prescribe such medications and treatments; and not requiring the substantial specialized skill, judgment and knowledge required in professional nursing."*

Amending clause.

Section 3. That section 66-1228, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Licensing.

"66-1228. **License—by examination—by endorsement without examination—license fees.**

By examination.

(1) **By examination.** The applicant for license to practice professional nursing shall be required to pass a written examination in such subjects as the board, acting under the professional nursing administration, may determine. Each written examination may be supplemented by an oral or practical examination. Upon successfully passing such examination, the board shall issue to the applicant a license to practice nursing as a registered professional nurse. The applicant shall pay a fee of twenty-five dollars ($25) at the time the application is submitted, which fee shall be returned to the applicant, if the application is withdrawn not later than five (5) days prior to the date of examination, or, if the examination is not taken, subject to deduction by the board of one dollar ($1) per subject of the examination which shall be retained by the board.

By endorsement.

(2) **By endorsement without examination.**

(a) The board, acting under the professional nursing administration, may issue a license to practice nursing as a registered professional nurse without examination, to an applicant who has been duly licensed as a registered professional nurse under the laws of another state, territory or country, if in the opinion of the board the applicant meets the qualifications required of registered nurses in this state at the time the applicant graduated

HeinOnline -- 1967 vol. II 894 1967

from a school of nursing. The applicant shall pay a fee of twenty-five dollars ($25) at the time the application is submitted, which fee shall be returned to the applicant if the application is withdrawn not later than five (5) days prior to final submission of the application to the board, subject to deduction of five dollars ($5), to be retained by the board.

(b) An applicant may, pending application for a professional nursing license pursuant to paragraph (a) immediately preceding practical professional nursing as an employee of a physician in her capacity as professional nurse or in a hospital or public health agency for a period not longer than *three (3)* months from the date the board acknowledges receiving from such nurse a duly completed statement, on a form provided by the board, of intention so to practice. Such statement shall consist of (1) an affidavit by such nurse and (2) an affidavit by the physician employer or by the administrator, assistant administrator, or director of nursing of a hospital or public health agency where such nurse intends to practice professional nursing. The affidavit of such nurse and the affidavit of such physician employer or administrator, assistant administrator or director of nursing of such hospital or public health agency shall contain the information deemed by the board to be necessary for such statement. This paragraph shall not be construed to permit such nurse to practice for more than said *three (3)* months period, or, in any event, after being notified by the board that application for a license has been denied, or, in all cases, after being notified by the board to cease and desist such practice; notice in all cases shall be given by registered *or certified* mail to the address of applicant as the same appears in the statement of applicant."

Amending clause.

Section 4. That section 66-1231, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Qualifications of applicants for licensed practical nurse.

"66-1231. **Qualifications of applicants for licensed practical nurse.** An applicant for a license to practice as a licensed practical nurse shall submit to the board acting under the practical nursing administration written evidence, verified by oath, that the applicant:

HeinOnline -- 1967 vol. II 895 1967

(1) *Has successfully completed at least an approved four (4) year high school course of study, or the equivalent thereof as determined by the state department of public instruction;*

(2) Has successfully completed the prescribed curriculum in an approved school of practical nursing and holds a diploma or certificate therefrom;

(3) Shall meet such other qualification requirements as the board, acting under the practical nursing administration, may prescribe."

Amending clause.

Section 5. That section 66-1232, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Licensing of practical nurses—by examination —by endorsement.

"66-1232. **License of practical nurse by examination—by endorsement without examination.**

(1) **By examination.** The applicant for license to practice as a practical nurse shall be required to pass a written examination in such subjects as the board, acting under the practical nursing administration, may determine. Each written examination may be supplemented by an oral or practical examination. Upon successfully passing such examination the Montana state board of nursing—practical nursing administration, shall issue to the applicant a license to practice as a licensed practical nurse.

(2) **By endorsement—without examination.**

(a) The Montana state board of nursing—practical nursing administration, may issue a license to practice as a licensed practical nurse without examination to any applicant who has been duly licensed or registered as a licensed practical nurse or person entitled to perform like services under a different title under the laws of another state, territory or country, if in the opinion of the practical nursing administration the applicant meets the requirements for practical nurses in this state.

(b) An applicant may, pending application for a practical nursing license pursuant to paragraph (a) immediately preceding, practice practical nursing as an employee of a physician in her capacity as practical nurse or in a hospital or public health agency for a period of not longer than three (3) months from the date the board

HeinOnline -- 1967 vol. II 896 1967

acknowledges receiving from such practical nurse a duly completed statement, on a form provided by the board, of intention so to practice. Such statement shall consist of (1) an affidavit by such practical nurse and (2) an affidavit by the physician employer or by the administrator, assistant administrator, or director of nursing of a hospital or public health agency where such practical nurse intends to practice practical nursing. The affidavit of such nurse and the affidavit of such physician employer or administrator, assistant administrator or director of nursing of such hospital or public health agency shall contain the information deemed by the board to be necessary for such statement.

This paragraph shall not be construed to permit such nurse to practice for more than said three (3) months period, or, in any event, after being notified by the board that application for a license has been denied, or, in all cases, after being notified by the board to cease and desist such practice; notice in all cases shall be given by registered or certified mail to the address of applicant as the same appears in the statement of application."

Amending clause.

Section 6. That section 66-1233, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Waiver of requirements.

"66-1233. **Waiver of certain requirements for licensing practical nurses before July 1,** *1970.* All applications for license under this waiver section of the within act must be made and delivered to the board before *April 1, 1970. The board will issue licenses thereon in conformity with this section no later than July 1, 1970.*

The Montana state board of nursing, practical nursing administration, may issue a license to practice as a licensed practical nurse to any person who shall submit written evidence, verified by oath, that said applicant:

(1) Is at least *twenty-five (25)* years of age;

(2) Is of good moral character;

(3) Is in good health;

(4) *Has successfully completed at least an approved four (4) year high school course of study, or the equivalent thereof as determined by the state department of public instruction;*

HeinOnline -- 1967 vol. II 897 1967

(5) Has lived in and *has been caring* for the *sick as a full time employee of a recognized health care facility in the state* for two *(2)* out of the three *(3)* years immediately prior to July 1, *1967.* The application must be endorsed by written statements verified by oath of

(a) *two professional nurses* licensed in Montana, or

(b) a doctor of medicine licensed in Montana and *the* registered professional nurse director of nursing *in the health care facility where employed,* which endorsers must have personal knowledge of the applicant's qualifications.

The applicant shall be required to pass a written examination in such subjects as the board—practical nursing administration, may determine. Each examination may be supplemented by an oral or practical examination.

(6) The presentation of a valid license issued by the Montana state board of nursing, practical nursing administration shall be prima facie evidence that the applicant meets the qualifications of this act for licensure."

Amending clause.

Section 7. That section 66-1242, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Exemption of persons from act —when and under what circumstances.

"66-1242. **Exemption of persons from act—when and under what circumstances.** No provisions of this law shall be construed as prohibiting gratuitous nursing by friends or members of the family, or as prohibiting the incidental care of the sick by domestic servants or persons primarily employed as housekeepers; as as prohibiting nursing assistance in the case of an emergency; nor shall it be construed as prohibiting the practice of nursing by students enrolled in approved schools of nursing or approved courses; nor by the graduates of such schools or courses pending the results of the first licensing examination scheduled by the board following such graduation; nor shall it be construed as prohibiting the practice of nursing in this state by any legally qualified nurse of another state whose engagement requires her to accompany and care for a patient temporarily residing in this state during the period of one such engagement, not to exceed six (6) months in length, provided such person does not represent or hold herself to be a nurse licensed to practice in this state; nor shall it be construed as prohibiting the

HeinOnline -- 1967 vol. II 898 1967

practice of any legally qualified nurse of another state who is employed by the United States government or any bureau, division or agency thereof, while in the discharge of her official duties.

Nothing in this act shall be construed as prohibiting nursing or care of the sick, with or without compensation, when done in connection with the practice of the religious tenets of any well-established religion or denomination by adherents thereof.

This act shall not be construed as conferring any authority to practice

(a) medicine, or

(b) surgery, or

(c) any combination thereof, or

(d) to confer any authority to practice any of the healing arts prescribed by law to be practiced in the state of Montana, nor

(e) to permit any person to undertake the treatment of disease by any of the methods employed in such arts, unless the licensee shall have qualified under the applicable law or laws licensing the practice of such profession(s) or healing art(s) in the state of Montana."

Amending clause.

Section 8. That section 66-1243, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Violation and penalties.

"66-1243. **Violation of act—penalties.** It shall be a misdemeanor for any person, including any corporation, association or individual to:

(1) Sell or fraudulently obtain or furnish any nursing diploma, license or record or aid or abet therein;

(2) Practice nursing as defined by this act under cover of any diploma, license or record illegally or fraudulently obtained or signed or issued unlawfully or under fraudulent representation;

(3) Practice professional nursing as defined by this act unless duly licensed to do so under the provisions of this act;

HeinOnline -- 1967 vol. II 899 1967

(4) *Practice practical nursing as defined by this act unless duly licensed to do so under the provisions of this act;*

(5) Use in connection with her name any designation tending to imply that she is a registered professional nurse or a licensed practical nurse unless duly licensed so to practice under provisions of this act;

(6) Practice nursing during the time her license issued under the provisions of this act shall be suspended, revoked or on inactive status;

(7) Conduct a school of nursing or a course unless the school or course has been approved by the board;

(8) Otherwise violate any provisions of this act.

Such misdemeanor shall be punishable by a fine of not less than one hundred dollars ($100) for the first offense. Each subsequent offense shall be punishable by a fine of three hundred dollars ($300), or by imprisonment of not more than six (6) months in the county jail, or by both such fine and imprisonment.

The several district courts within their respective county jurisdictions are hereby empowered to hear, try and determine such misdemeanor and to impose in full the punishment and fines herein prescribed. It shall be necessary to prove, in any prosecution for misdemeanor under this section, only a single act prohibited by law, or a single holding out, or an attempt, without proving a general course of conduct in order to constitute a violation."

Repealing clause.

Section 9. All acts and parts of acts in conflict herewith are hereby repealed.

Approved: March 2, 1967.

CHAPTER 292

An Act Amending Sections 32-3201 and 32-3309, as Amended by Sections 6-101 and 6-209 of Chapter 197 of the Laws of 1965, Regarding the Payment of Fees of Motor Trucks and Vehicles, and Providing that the Montana Highway Patrol, Highway Commission Employees, While on Duty at the Weigh Stations, County Sheriff or City Police Retain Such Vehicle at Site of Violation.

Be it enacted by the Legislative Assembly of the State of Montana:

HeinOnline -- 1967 vol. II 900 1967

Section 1. That section 32-3201, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows: Amending clause.

"32-3201. **Time for payment of fees.** A person who owns *or operates* a *vehicle subject to the fees provided in chapter 197, sections 6-201, 6-202, 6-203, 6-204, 6-205, 6-206, 6-207, 6-208, and 6-210 and acts amendatory thereto shall pay the fees provided in this chapter.* Time for payment of fees.

Prior to or at the time of registration of such vehicle as required under title 53, Revised Codes of Montana, 1947, and acts amendatory thereto, or prior to the operation of such vehicle on the public highways, fees paid shall be the full amount provided in this chapter unless otherwise provided by law.

A person who makes application for license after the first day of July of any year shall pay one-half (½) of those fees." Pro rata fees.

Section 2. Section 32-3309, Revised Codes of Montana, 1947, is hereby amended to read as follows: Amending clause.

"32-3309. **Failure to pay additional fees—penalty.** No vehicle licensed under the provisions of section 6-208 [32-3308] shall be operated over the public highways unless the owner or operator thereof within ten (10) *calendar* days *or seven (7) business days as provided by law, whichever is greater,* after the expiration of any such three-month period shall apply for and pay the required fee for a license for an additional three-month period, or for the remainder of the year. Any person who operates any such vehicle upon the public highways after the expiration of said ten (10) *calendar* days *or seven (7) business days as provided by law, whichever is greater,* shall be guilty of a misdemeanor. In addition he shall be required to purchase a gross weight license for the vehicle involved at the fee covering an entire year's license for opration thereof, less the fees for any period or periods of the year already paid. If, within five (5) days thereafter, no license for a full year has been purchased as required aforesaid, the Montana highway patrol, county sheriff or city police *may* impound such vehicle in such manner as may be directed for such cases by the supervisor of the Montana highway patrol until such requirement is met. Failure to pay fees—penalty.

Approved: March 2, 1967.

HeinOnline -- 1967 vol. II 901 1967

CHAPTER 293

An Act to Amend Section 32-3204, Revised Codes of Montana, 1947, Enacted as Section 6-104, Chapter 197, Laws of 1965, Relating to the Disposition of Fees Collected by the County Treasurer.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 32-3204, Revised Codes of Montana, 1947, enacted as section 6-104, chapter 197, laws of 1965, is amended to read as follows:

Disposition of fees.

"32-3204. **Disposition of fees collected by county treasurer.** At the time of collecting the fees provided for *in section 32-3201, R.C.M. 1947,* each county treasurer shall retain five percent (5%) of the fees collected *by the county treasurer* for the cost of administration, *and for deposit in the general fund of the county.* The remaining ninety-five percent (95%) shall be remitted monthly to the state treasurer for deposit to the credit of the commission. Such remittance shall be made on forms furnished to the county treasurer by the commission."

Severabiilty clause.

Section 2. The provisions of this act shall be severable and if any of its sections, provisions, exceptions, sentences, clauses, phrases or parts be held unconstitutional or void, the remainder of this act shall continue in full force and effect.

Approved: March 2, 1967.

CHAPTER 294

An Act Amending Section 84-301, R.C.M. 1947, to Place Stocks of Merchandise Stored for Shipment to a Destination Outside the State in Class Seven (7) for the Purpose of Property Taxation.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 84-301, R.C.M. 1947, is amended to read as follows:

Classification of property for taxation.

"84-301. **Classification of property for taxation.** For the purpose of taxation the taxable property in the state shall be classified as follows:

HeinOnline -- 1967 vol. II 902 1967

Class One. The annual net proceeds of all mines and mining claims, after deducting only the expenses specified and allowed by section 84-5403; also where the right to enter upon land, to explore or prospect, or dig for oil, gas, coal or mineral is reserved in land by any person or corporation, the surface title to which has passed to another, the assessor and the state and county boards of equalization shall determine the value of the right to enter upon said tract of land for the purpose of digging, exploring, or prospecting for gas, oil, coal or minerals, and the same shall be placed in this classification for the purpose of taxation. Class one.

Class Two. All household goods and furniture, including clocks, musical instruments, sewing machines, wearing apparel of members of the family, and all personal property actually used by the owner for personal and domestic purposes, or for the furnishing or equipment of the family residence; all agricultural and other tools, implements and machinery, gas and other engines and boilers, threshing machines and outfits used therewith, automobiles, motor trucks and other power-driven cars, vehicles of all kinds, boats and all watercraft, harness, saddlery and robes. Class two.

Class Three. Livestock, poultry and the unprocessed products of both; stocks of merchandise of all sorts, together with furniture and fixtures used therewith; and all office or hotel furniture and fixtures. Class three.

Class Four. All land, town and city lots, with improvements, and all trailers affixed to land owned, leased, or under contract of purchase by the trailer owner, manufacturing and mining machinery, fixtures and supplies, except as otherwise provided by the constitution of Montana, and except as such property may be included in Class Five or Class Seven. Class four.

Class Five. (a) All moneys and credits, secured or unsecured, including all state, county, school district and other municipal bonds, warrants and securities, without any deduction or offset; provided, however, that the terms 'moneys and credits' as herein used shall not embrace the moneyed capital employed in the banking business by any banking corporation or individual in this state. Class five.

HeinOnline -- 1967 vol. II 903 1967

(b) All poles, lines, transformers, transformer stations, meters, tools, improvements, machinery and other property used and owned by cooperative rural electrical and cooperative rural telephone associations organized under the laws of Montana.

(c) All unprocessed agricultural products either on the farm or in storage, irrespective of whether said products are owned by the elevator, warehouse or flour mill owner or company storing the same, or any other person whomsoever, and excepting livestock and poultry and the unprocessed products of both.

Class six.

Class Six. Property formerly included in this class is now classified by section 84-308 *of the Revised Codes of Montana, 1947.*

Class seven.

Class Seven. *(a)* All new industrial property. New industrial property shall mean any new industrial plant, including land, buildings, machinery and fixtures which, in the determination of the state board of equalization, is used by a new industry during the first three (3) years of operation not having been assessed prior to July 1, 1961 within the state of Montana. New industry shall mean any person, corporation, firm, partnership, association, or other group which establishes a new plant or plants in this state for the operation of a new industrial endeavor, as distinguished from a mere expansion, reorganization, or merger of an existing industry or industries. Provided, however, that new industrial property shall be limited to industries that manufacture, mill, mine, produce, process or fabricate materials, or do similar work in which capital and labor are employed and in which materials unserviceable in their natural state are extracted, processed, or made fit for use or are substantially altered or treated so as to create commercial products or materials; and in no event shall the term new industrial property be included to mean property used by retail or wholesale merchants, commercial services of any type, agriculture, trades or professions. And provided further, that new industrial property shall not be included to mean property which is used or employed in any industrial plant which has been in operation in this state for three (3) years or longer. Any person, corporation, firm, partnership, association or other group seeking to qualify its property for inclusion in this class shall make ap-

HeinOnline -- 1967 vol. II 904 1967

plication to the state board of equalization in such manner and form as may be required by said board.

(b) Freeport merchandise. Freeport merchandise means those stocks of merchandise manufactured or produced outside this state which are in transit through this state and consigned to a warehouse or other storage facility, public or private, within this state, for storage in transsit prior to shipment to a final destination outside the state, and which have acquired a taxable situs within the state.

Stocks of merchandise do not lose their status as freeport merchandise because while in the storage facility they are assembled, bound, joined, processed, disassembled, divided, cut, broken in bulk, relabeled or repackaged.

Any person, corporation, firm, partnership, association, or other group seeking to qualify its property for inclusion in this class shall make application to the state board of equalization in such manner or form as may be required by said board.

The state board of equalization shall establish standards, rules and regulations for the guidance of county assessors in assessing freeport merchandise.

Class Eight. Any improvement on real property valued at not more than fifteen thousand dollars ($15,000), which is owned and actually occupied by a widow, with or without minor or dependent children, or by: Class eight.

(1) a widow *sixty-two (62)* years of age or older, whether with or without minor dependent children, or

(2) a widower *sixty-five (65)* years of age or older, whether with or without minor dependent children, or

(3) a widow with minor or dependent children regardless of age, or

(4) a recipient of retirement benefits not exceeding one hundred fifty dollars ($150) per month, if single, or two hundred fifty dollars ($250) per month if married. Provided such owner and occupier is not gainfully employed to such an extent as would render him or her ineligible for social security benefits, should he or she be otherwise eligible for such benefits, and does not have income from all sources, excluding retirement benefits as mentioned in (4) hereinabove, in excess of one thou-

HeinOnline -- 1967 vol. II 905 1967

sand five hundred dollars ($1,500) per year. Provided, further, that one who applies for classification of property under this class must make an affidavit before the county assessor of the county in which said property is located, on a form as may be provided by the state board of equalization supplied without cost to the applicant, as to his income, if applicable, as to his retirement benefits, if applicable, or, as to his marital status, if applicable, and to the fact that he or she actually occupies such improvements with none other than his or her spouse, minor or dependent children, or persons not responsible for all or any part of the financial support of the affiant, and that the improvements are not used for income-producing purposes other than such purposes as are normally permitted in or on such improvements, with right of the county welfare board to investigate the applicant, on the completion of the form, as to answers given on the form. Provided, further, that the value of said property shall not increase during the life of the recipient of retirement benefits or widow or widower covered under this class.

Class nine.

Class Nine. All property not included in the eight *(8)* preceding classes."

Approved: March 2, 1967.

CHAPTER 295

An Act Relating to Lands Owned by the State of Montana; Creating a Resource Development Account in the Earmarked Revenue Fund for the Purpose of Developing State-Owned Lands to Increase the Revenue Therefrom for the Support of the Common Schools and Other Institutions and Objects for Which the Lands are Held in Trust; and Authorizing Allowances from the Income from the Lands for the Resource Development Account in the Earmarked Revenue Fund.

Be it enacted by the Legislative Assembly of the State of Montana:

Development of state-owned lands.

Section 1. It is in the best interest and to the great advantage of the state of Montana to seek the highest development of state-owned lands in order that they might be placed to their highest and best use and thereby derive greater revenue for the support of the common

HeinOnline -- 1967 vol. II 906 1967

schools, the university system and other institutions benefiting therefrom and that in so doing the economy of the local community as well as the state is benefited as a result of the impact of such development.

Section 2. Unless a different meaning is plainly required by the context, as used in this act:

"Account" means the resource development account in the earmarked revenue fund. "Account."

"Department" means the department of state lands and investments. "Department."

"Board" means the state board of land commissioners. "Board."

"Income" means all proceeds received for the use of state land except revenues required by law to be placed in the Montana trust and legacy fund. "Income."

Section 3. A resource development account in the earmarked revenue fund in the state treasury is hereby created to be used solely for the purpose of investing in the improvement and development of state-owned lands acquired by grant or foreclosure in order to increase the revenue to be derived therefrom for common school support and support of the other entities, institutions and objects for which the lands are held in trust. The developments contemplated may include those projects that will develop or conserve the various state land resources including; water, both surface and underground, grazing land, agricultural land and timber land to the benefit of the state of Montana. They may also include expenses necessary to perfect title to lands hereafter claimed by the state of Montana which are suitable for development and other expenses or costs which in the judgment of the board are desirable or necessary in order to develop or increase the value of the land or the revenue therefrom. Appropriations from the account shall be expended for no other purposes. Resource development account—creation and use.

Section 4. Moneys in the account derived from the income from public school lands, university lands, agricultural college lands, scientific school lands, normal school lands, capitol building lands, or institutional lands, shall be expended by the department solely for the purpose of defraying the costs and expenses necessarily incurred in developing public lands of the same trust. Use of funds.

HeinOnline -- 1967 vol. II 907 1967

Income required to achieve purpose of act.

Section 5. The board shall determine the amount or percentage of income, not to exceed two and one-half percent (2½%) which is necessary to achieve the purposes of this act, and shall provide by rule for deductions of that amount or percentage from the income which is secured from the lands by the department for the trusts benefited by this act.

Deductions.

Section 6. All deductions from gross proceeds made in accordance with section 4 of this act shall be paid into the account and the balance of such proceeds not affected hereby shall be paid into the state treasury to the credit of the account otherwise entitled thereto.

Investment.

Section 7. The board shall invest the moneys in the resource development account in safe interest-bearing securities for the benefit of the account.

Rules.

Section 8. The board shall adopt such rules as it deems necessary and proper for the purpose of carrying out the provisions of this act.

Severability clause.

Section 9. It is the intent of the legislative assembly that if a part of this act is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this act is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Approved: March 2, 1967.

CHAPTER 296

An Act Amending Sections 84-101 and 84-301, R.C.M. 1947, to Provide for the Taxation of Forms of Housing Known as Mobile Homes of Certain Dimensions as Real Property; Amending Sections 84-406, 84-6601, 84-6604, 84-6605 and 53-114, R.C.M. 1947, and Making Additional Provisions for the Discovery, Assessment and Collection of Taxes Due With Respect to Such Mobile Homes and Providing Penalties for Violation of This Act.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 84-101, R.C.M. 1947, is amended to read as follows:

HeinOnline -- 1967 vol. II 908 1967

"84-101. (1996) **Definition of terms.** Whenever the terms mentioned in this section are employed in dealing with the subject of taxation, they are employed in the sense hereafter affixed to them. Definition of terms.

First—The term 'property' includes moneys, credits, bonds, stocks, franchises, and all other matters and things real, personal, and mixed, capable of private ownership; but this must not be construed so as to authorize the taxation of the stocks of any company or corporation when the property of such company or corporation represented by such stocks is within the state and has been taxed. "Property."

Second—The term 'real estate' includes: "Real estate."

1. The possession of, claim to, ownership of, or right to the possession of land.
2. All mines, minerals, and quarries in and under the land, subject to the provisions of section 84-5401, all timber belonging to individuals or corporations growing or being on the lands of the United States, and all right and privileges appertaining thereto.
3. Improvements.

Third—The term 'improvements' includes all buildings, structures, *mobile homes,* fixtures, fences, and improvements, *including mobile homes, situated upon,* erected upon or affixed to the land, whether title has been acquired to said land or not. "Improvements."

Fourth—The term 'personal property' includes everything which is the subject of ownership, not included within the meaning of the term 'real estate' and 'improvements.' "Personal property."

Fifth—The terms 'value' and 'full cash value' mean the amount at which the property would be taken in payment of a just debt due from a solvent debtor. "Value" and "full cash value."

Sixth—The term 'credit' means those solvent debts, secured or unsecured, owing to a person. "Credit."

Seventh—The term 'mobile home' means forms of housing known as 'trailers,' 'house trailers' or 'trailer coaches' exceeding eight (8) feet in width or thirty-two (32) feet in length designed to be moved from one place to another by an independent power connected thereto." "Mobile home."

HeinOnline -- 1967 vol. II 909 1967

Amending clause.

Section 2. Section 84-301, R.C.M. 1947, is amended to read as follows:

Classification of property for taxation.

"84-301. **Classification of property for taxation.** For the purpose of taxation the taxable property in the state shall be classified as follows:

Class one.

Class One. The annual net proceeds of all mines and mining claims, after deducting only the expenses specified and allowed by section 84-5403; also where the right to enter upon land, to explore or prospect, or dig for oil, gas, coal or mineral is reserved in land by any person or corporation, the surface title to which has passed to another, the assessor and the state and county boards of equalization shall determine the value of the right to enter upon said tract of land for the purpose of digging, exploring, or prospecting for gas, oil, coal or minerals, and the same shall be placed in this classification for the purpose of taxation.

Class two.

Class Two. All household goods and furniture, including clocks, musical instruments, sewing machines, wearing apparel of members of the family, and all personal property actually used by the owner for personal and domestic purposes, or for the furnishing or equipment of the family residence; all agricultural and other tools, implements and machinery, gas and other engines and boilers, threshing machines and outfits used therewith, automobiles, motor trucks and other power-driven cars, vehicles of all kinds *except mobile homes,* boats and all watercraft, harness, saddlery and robes.

Class three.

Class Three. Livestock, poultry and the unprocessed products of both; stocks of merchandise of all sorts, together with furniture and fixtures used therewith, *except mobile homes;* and all office or hotel furniture and fixtures.

Class four.

Class Four. *(a)* All land, town and city lots, with improvements, and all trailers affixed to land owned, leased, or under contract of purchase by the trailer owner, manufacturing and mining machinery, fixtures and supplies, except as otherwise provided by the constitution of Montana, and except as such property may be included in Class Five or Class Seven.

(b) Mobile homes without regard to the ownership of the land upon which they are situated, except those held

HeinOnline -- 1967 vol. II 910 1967

by a distributor or dealer of mobile homes as part of his stock in trade.

Class Five. (a) All moneys and credits, secured or unsecured, including all state, county, school district and other municipal bonds, warrants and securities, without any deduction or offset; provided, however, that the terms 'moneys and credits' as herein used shall not embrace the moneyed capital employed in the banking business by any banking corporation or individual in this state. Class five.

(b) All poles, lines, transformers, transformer stations, meters, tools, improvements, machinery and other property used and owned by cooperative rural electrical and cooperative rural telephone associations organized under the laws of Montana.

(c) All unprocessed agricultural products either on the farm or in storage, irrespective of whether said products are owned by the elevator, warehouse or flour mill owner or company storing the same, or any other person whomsoever, and excepting livestock and poultry and the unprocessed products of both.

Class Six. Property formerly included in this class is now classified by section 84-308. Class six.

Class Seven. All new industrial property. New industrial property shall mean any new industrial plant, including land, buildings, machinery and fixtures which, in the determination of the state board of equalization, is used by a new industry during the first three (3) years of operation not having been assessed prior to July 1, 1961 within the state of Montana. New industry shall mean any person, corporation, firm, partnership, association, or other group which establishes a new plant or plants in this state for the operation of a new industrial endeavor, as distinguished from a mere expansion, reorganization, or merger of an existing industry or industries. Provided, however, that new industrial property shall be limited to industries that manufacture, mill, mine, produce, process or fabricate materials, or do similar work in which capital and labor are employed and in which materials unserviceable in their natural state are extracted, processed or made fit for use or are substantially altered or treated so as to create commercial products or Class seven.

HeinOnline -- 1967 vol. II 911 1967

materials; and in no event shall the term new industrial property be included to mean property used by retail or wholesale merchants, commercial services of any type, agriculture, trades or professions. And provided further, that new industrial property shall not be included to mean property which is used or employed in any industrial plant which has been in operation in this state for three (3) years or longer. Any person, corporation, firm, partnership, association or other group seeking to qualify its property for inclusion in this class shall make application to the state board of equalization in such manner and form as may be required by said board.

Class eight.

Class Eight. Any improvement on real property valued at not more than fifteen thousand dollars ($15,000), which is owned and actually occupied by a widow, with or without minor or dependent children, or by:

(1) a widow *sixty-two (62)* years of age or older, whether with or without minor or dependent children, or

(2) a widower *sixty-five (65)* years of age or older, whether with or without minor or dependent children, or

(3) a widow with minor or dependent children regardless of age, or

(4) a recipient of retirement benefits not exceeding one hundred fifty dollars ($150) per month, if single, or two hundred fifty dollars ($250) per month if married. Provided such owner and occupier is not gainfully employed to such an extent as would render him or her ineligible for social security benefits, should he or she be otherwise eligible for such benefits, and does not have income from all sources, excluding retirement benefits as mentioned in (4) hereinabove, in excess of one thousand five hundred dollars ($1,500) per year. Provided, further, that one who applies for classification of property under this class must make an affidavit before the county assessor of the county in which said property is located, on a form as may be provided by the state board of equalization supplied without cost to the applicant, as to his income, if applicable, as to his retirement benefits, if applicable, or, as to his marital status, if applicable, and to the fact that he or she actually occupies such improvements with none other than his or her spouse, minor or dependent children, or persons not responsible for all or

HeinOnline -- 1967 vol. II 912 1967

any part of the financial support of the affiant, and that the improvements are not used for income-producing purposes other than such purposes as are normally permitted in or on such improvements, with right of the county welfare board to investigate the applicant, on the completion of the form, as to answers given on the form. Provided, further, that the value of said property shall not increase during the life of the recipient of retirement benefits or widow or widower covered under this class.

Class Nine. All property not included in the eight preceding classes." Class nine.

Section 3. Section 84-406, R.C.M. 1947, is amended to read as follows: Amending clause.

"84-406. **Time of assessment—motor vehicles—***mobile homes*—**livestock.** Time of assessment—motor vehicles, mobile homes and livestock.

(1) The assessor must, between the first Monday of March and the second Monday of July in each year, ascertain the names of all taxable inhabitants, and assess all property in his county subject to taxation, except such as is required to be assessed by the state board of equalization, and must assess such property to the persons by whom it was owned or claimed, or in whose possession or control it was at *12 midnight* of the first Monday of March next preceding. *He must also ascertain and assess all mobile homes arriving in his county after 12 midnight of the first Monday of March next preceding. The procedure provided by this section shall not apply to*

(a) Motor vehicles which are required by subdivision (2) hereof to be assessed as of the first day of January; but no mistake in the name of the owner or supposed owner of real property renders the assessment thereof invalid.

(b) Livestock being fed in feeding pens or enclosures which may by subdivision (3) of this section be assessed on an average inventory basis. Credits must be assessed as provided in section 84-101, subdivision 6.

(c) Mobile homes held by a distributor or dealer of mobile homes as a part of his stock in trade.

(2) The assessor must ascertain and assess all motor vehicles, *except mobile homes,* in his county subject to taxation as of January 1st in each year, and the same

HeinOnline -- 1967 vol. II 913 1967

shall be assessed to the persons by whom owned or claimed, or in whose possession or control such vehicle was at *12 midnight* of the first day of January in each year. Goods, wares and merchandise of motor vehicle dealers, other than new mobile homes, shall continue to be assessed at full and true value as of the first Monday of March.

Except that this paragraph shall not apply to an applicant for registration or re-registration of a mobile home, nothing herein contained shall relieve the applicant for registration or re-registration of any *other* motor vehicle so assessed or subject to assessment of the duty of paying taxes thereon as a condition precedent to registration or re-registration in the event said taxes have not been paid by any prior applicant or owner in all cases where required to be paid.

(3) The assessed value of livestock being fed in feeding pens or enclosures on the first Monday in March may be computed by adding the value of livestock more than six *(6)* months of age being fed on the last day of each month since the last assessment date and dividing the sum by twelve *(12)."*

Amending clause.

Section 4. Section 84-6601, R.C.M. 1947, is amended to read as follows:

Definitions.

"84-6601. *Definitions. As used in this act:*

"Mobile home."

(1) 'Mobile home' means forms of housing known as 'trailers', 'house trailers' or 'trailer coaches' exceeding eight (8) feet in width or thirty-two (32) feet in length designed to be moved from one place to another by an independent power connected thereto.

"House trailer."

(2) **'House trailer'** means; *(a)* A trailer or semitrailer *other than a mobile home as defined in this section* which is designed, constructed and equipped as a dwelling place; living abode or sleeping place (either permanently or temporarily) whether mobile or stationary; or

(b) A trailer or semitrailer whose chassis and exterior shell is designed and constructed for use as a house trailer, whether mobile or stationary.

"Dealer."

(c) 'Dealer' means a person engaged in the distribution or sale of mobile homes.

HeinOnline -- 1967 vol. II 914 1967

Declaration of destination of mobile homes brought into state.

Section 5. (1) Whoever brings a mobile home into the state of Montana shall immediately upon arrival in the state execute a written declaration verified under oath stating the destination of the mobile home and such other information as the state board of equalization shall require and shall deliver the original of the declaration to whoever is on duty at the nearest port of entry station, state vehicle weight station or such other places and persons as the state board of equalization may prescribe. He shall also immediately upon arrival in the state of Montana affix a copy of the declaration to the mobile home at a conspicious place.

(2) Whoever moves a mobile home from a point within the state of Montana to another point within or without the state of Montana shall first:

(a) Execute the declaration provided for in subsection (1) of this section, deliver the original of it to the treasurer of the county in which the move originates or to such other person as the state board of equalization shall prescribe and affix a copy of it to the mobile home to be moved at a conspicuous place;

(b) Obtain from the county treasurer of the county in which the move originates a receipt showing payment in full of property taxes due with respect to that mobile home to the date it is moved.

(3) The provisions of subsection (2) (b) of this section shall not apply whenever a person moves a mobile home:

(a) From a point without to a point within the state of Montana.

(b) Between places of business of dealers within or without the state of Montana.

(c) From the place of business of a dealer to a point within or without the state of Montana.

Rules.

Section 6. **Rules.** The state board of equalization may make reasonable rules and regulations necessary for or as an aid to effectuation of the purposes of this act."

Amending clause.

Section 7. Section 84-6604, R.C.M. 1947, is amended to read as follows:

HeinOnline -- 1967 vol. II 915 1967

Penalty for failure to display or produce declaration.

"84-6604. **Penalty for failure to display** *or produce declaration, sticker or receipt.*

(1) Whoever makes a false or fraudulent declaration of destination, or, when required, fails to execute a declaration of destination or fails to produce a declaration of destination or tax paid receipt, if a tax paid receipt is required, is guilty of a misdemeanor and upon conviction is punishable by imprisonment in a county jail for not more than six (6) months, or by a fine of not more than five hundred dollars ($500), or both.

(2) Whoever fails to display a property tax paid sticker or to produce a property tax paid receipt from fifteen (15) days after the due date for personal property taxes of one *(1)* year to the due date for personal property taxes of the next year shall constitute a misdemeanor punishable by a fine of not less than ten dollars ($10) nor more than fifty dollars ($50) or confinement in the county jail for not more than thirty (30) days or both such fine and imprisonment."

Amending clause.

Section 8. Section 84-6605, R.C.M. 1947, is amended to read as follows:

Restrictions.

"84-6605. **Act restricted to trailers subject to taxation.** The provisions of this act shall apply only to those *mobile homes and* house trailers, as defined in this act, subject to assessment and taxation under section 84-406 and section 84-6008."

Amending clause.

Section 9. Section 53-114, R.C.M. 1947, as amended by section 1, chapter 245, Laws of 1963, is amended to read as follows:

Application for registration of motor vehicles—assessment.

"53-114. **Application for registration of motor vehicles and payment of license fees thereon—assessment of motor vehicles in the stock of licensed motor vehicle dealers as merchandise.**

(1) Every owner of a motor vehicle operated or driven upon the public highways of this state shall, for each motor vehicle owned, except as herein otherwise expressly provided, file, or cause to be filed, in the office of the county treasurer wherein such motor vehicle is owned or taxable, an application for registration, or reregistration, upon blank form to be prepared and furnished by the registrar of motor vehicles, executed in quintuplet, which application shall contain:

HeinOnline -- 1967 vol. II 916 1967

(a) Name and address of owner, giving county, school district, and town or city within whose corporate limits the motor vehicle is taxable.

(b) Name and address of conditional sales vendor, mortgagee or holder of other lein against said motor vehicle, with statement of amount owing under such contract or lien.

(c) Description of motor vehicle, including make, year model, engine and serial number, manufacturer's model or letter, gross weight, type of body and, if truck, the rated capacity.

(d) In case of re-registration, the license number for the preceding year.

(e) Such other information as the registrar of motor vehicles may require.

(2) *Whoever files an application for registration or re-registration of a motor vehicle except of a mobile home as defined in section 84-101, R.C.M. 1947, shall* before filing such application with the county treasurer submit the same to the county assessor of said county and said county assessor shall enter on said application in a space to be provided for that purpose, the full and true and the assessed valuation of said vehicle for the year for which said application for registration is made.

(3) *Whoever files an application for registration or re-registration of a motor vehicle except of a mobile home as defined in section 84-101, R.C.M. 1947, shall* upon the filing of said application (1) pay to the county treasurer the registration fee, as provided in section 53-122 and section 53-115, and shall also at such time (2) pay the personal property taxes assessed against said vehicle for the current year of registration (unless the same shall have been theretofore paid for said year) before the application for registration or re-registration may be accepted by the county treasurer. The county treasurer is hereby empowered to make full and complete investigation of the tax status of said vehicle and any applicant for registration or re-registration must submit proof with respect thereto from the tax records of the proper county at the request of the county treasurer.

(4) The amount of taxes on said motor vehicle, *except a mobile home as defined in section 84-101, R.C.M. 1947,*

HeinOnline -- 1967 vol. II 917 1967

shall be computed and determined by the county treasurer on the basis of the levy of the year preceding the current year of application for registration or re-registration and such determination shall be entered on the application form in a space provided therefor.

(5) Motor vehicles, *except mobile homes as defined in section 84-101, R.C.M. 1947,* are hereby declared to be assessable for taxation as of and on the first day of January in each year irrespective of the time fixed by law for the assessment of other classes of personal property, and irrespective of whether or not the levy and tax may be a lien upon real property within the state of Montana, provided that in no event shall any motor vehicle be subject to assessment, levy and taxation more than once in each year.

(6) The applicant for original registration of any wholly new and unused motor vehicle *except a mobile home as defined in section 84-101, R.C.M. 1947,* acquired by original contract after the first day of January of any year shall be required, whenever such vehicle has not been otherwise assessed, to pay the motor vehicle sales tax provided by section *32-3315, R.C.M. 1947,* irrespective of whether or not such vehicle was in the state of Montana on the first day of January of such year.

(7) Upon accepting application for registration or re-registration of any motor vehicle which is subject to taxation in this state on January 1st in any year, and upon payment of taxes, the county treasurer shall stamp on said application: 'taxes on this vehicle due January 1st of current year paid by applicant, prior applicant or owner and this vehicle is eligible for registration.'

Upon accepting application for registration of any motor vehicle which was not subject to taxation in this state on January 1st in any year, the county treasurer shall indicate such fact by proper entry on said application.

(8) The registrar of motor vehicles shall have authority to make proper entry on any certificate of title to any motor vehicle respecting payment of taxes in accord with the facts."

Severability clause.

Section 10. **Severability clause.** It is the intent of the legislative assembly that if a part of this act is in-

HeinOnline -- 1967 vol. II 918 1967

valid, all valid parts that are severable from the invalid part remain in effect. If a part of this act is invalid in one or more of its application, the part remains in effect in all valid applications that are severable from the invalid applications.

Approved: March 2, 1967.

CHAPTER 297

An Act to Provide for the Emergency Management of Resources.

Be it enacted by the Legislative Assembly of the State of Montana:

Post-attack Resource Management Act.

Section 1. This act may be cited as the "Post-attack Resource Management Act."

Declaration of necessity.

Section 2. (1) The legislature recognizes that an attack upon the United States is a possibility; that such attack might be of unprecedented size and destructiveness; that a considerable period of time may elapse after an attack before federal operational control over the management of resources can be instituted; and that federal planning and activities with respect to post-attack recovery and rehabilitation necessarily are predicated on the ability of the states and their political subdivisions to prepare for, and respond promptly to, the problems created by an attack. Therefore, it is hereby found and declared to be necessary:

(a) To create an office of emergency resource management for the execution of a plan for emergency resource management;

(b) To confer upon the governor and upon the executive heads of governing bodies of political subdivisions of the state the emergency powers provided herein.

(2) It is further declared to be the purpose of this act and the policy of this state that all resource management functions of this state be coordinated to the maximum extent with the comparable functions of the federal government, of other states and localities, and of private agencies to the end that the most effective preparation and use may be made of available man power, resources, and facilities in an emergency.

HeinOnline -- 1967 vol. II 919 1967

Section 3. As used in this act, unless the context clearly indicates otherwise:

"Emergency Resources Management Plan."

(1) "Emergency Resources Management Plan" shall mean that plan prepared by the state emergency resources planning committee, approved by the federal office of emergency planning and adopted by the governor, which sets forth the organization, administration, and functions for the emergency management by the state government of essential resources and economic stabilization within the state. The plan shall provide an emergency organization and emergency administrative policies and procedures for the conservation, allocation, distribution, and use of essential resources available to the state following a civil defense emergency such as an attack upon the United States. It shall be supplemental to the national plan for emergency preparedness adopted by the president of the United States, and shall be come operative upon the establishment of a civil defense emergency. To the extent that the federal government is either incapable of or not prepared to conduct its emergency resources management program, the state plan will substitute for and replace the federal program until such time as the federal program becomes effective in the state.

"Enemy attack."

(2) "Enemy attack" means an actual attack by a foreign nation by hostile air raids, or other forms of warfare, upon this state or any other state or territory of the United States.

"Political subdivision."

(3) "Political subdivision" shall mean any county, city, town, or township of the state.

State committee.

Section 4. (1) The governor may establish a state emergency resource planning committee (hereinafter referred to as the "state committee") and the office of state emergency planning director (hereinafter referred to as the "director"), and appoint to serve at his pleasure the members of such state committee and the director.

Members—authorization.

(2) The state committee shall consist of the governor, who shall be chairman, the director, other state officials designated by the governor, and persons representative of industry, commerce, labor, agriculture, civic, governmental, and professional groups designated by the governor. In the absence of the governor, the director shall act as chairman.

HeinOnline -- 1967 vol. II 920 1967

Section 5. (1) The governor shall have general direction and control of the emergency resources management within this state and all officers, boards, agencies, individuals, or groups established under the emergency resource management plan.

(2) In performing his duties under this act, the governor is authorized to cooperate with the federal government, with other states, and with private agencies in all matters pertaining to the emergency management of resources.

(3) In performing his duties under this act, and to effect its policies and purpose, the governor is further authorized and empowered to make, amend, and rescind the necessary orders, rules, and regulations to carry out the provisions of this act within the limits of authority conferred upon him herein, with due consideration of the emergency resources management plans of the federal government.

Declaration of emergency—procedure and powers.

Section 6. (1) Following an attack, the governor, if he finds such action necessary to deal with the danger to the public safety caused thereby or to aid in the post-attack recovery or rehabilitation of the United States or any part thereof, shall declare by proclamation the existence of a post-attack recovery and rehabilitation emergency. Any such proclamation shall be ineffectual, unless the legislature is then in session or the governor simultaneously issues an order convening the legislature in special session within forty-five (45) days.

(2) During the period when the proclamation issued pursuant to subsection (1) of this section is in force, or during the continuance of any emergency declared by the president of the United States or the congress calling for post-attack recovery and rehabilitation activities, subject to the limitations set forth in this act, and in a manner consistent with any rules, regulations, or orders and policy guidance issued by the federal government, the governor may issue, amend and enforce rules, regulations, and orders to:

(a) Control, restrict, and regulate by rationing, freezing, use of quotas, prohibitions on shipments, price fixing, allocation or other means the use, sale or distribution of food, feed, fuel, clothing and other commodities, materials, goods or services;

HeinOnline -- 1967 vol. II 921 1967

(b) Prescribe and direct activities in connection with but not limited to use, conservation, salvage, and prevention of waste of materials, services, and facilities, including production, transportation, power, and communication facilities, training and supply of labor, utilization of industrial plants, health and medical care, nutrition, housing, including the use of existing and private facilities, rehabilitation, education, welfare, child care, recreation, consumer protection, and other essential civil needs; and

(c) Take such other action as may be necessary for the management of resources following an attack.

Rules and regulations.

(3) All rules, regulations, and orders issued pursuant to authority conferred by this act shall have the full force and effect of law during the continuance of a proclamation or declaration of emergency as contemplated by this section, when a copy of the rule, regulation, or order is filed in the office of the secretary of state or, if issued by a local or area official, when filed in the office or offices of the county clerk and recorder. If, by reason of destruction or disruption attendant upon or resulting from attack, the filing requirements of this subsection cannot be met, public notice by such means as may be available shall be deemed a complete and sufficient substitute. All existing laws, ordinances, rules, regulations, and orders inconsistent with the provisions of this act, or any rule, regulation or order issued under the authority thereof, shall be inoperative during the period of time and to the extent such inconsistency exists.

Jurisdiction and authority.

(4) Any authority exercised pursuant to a proclamation or emergency contemplated by this section may be exercised with respect to the entire territory over which the governor or other official, as the case may be, has jurisdiction, or as to any specified part thereof.

(5) The governor's power and authority to issue a proclamation following an attack shall be terminated by the passage of a joint resolution of the legislature or by declaration of the termination of the emergency by the president or by the congress; provided that the proclamation shall terminate automatically six (6) months after issuance and a similar proclamation may not be issued unless concurrence is given thereto by a joint resolution of the legislature.

HeinOnline -- 1967 vol. II 922 1967

Judicial inquiry.

Section 7. Every proclamation and the facts related therein issued under this act shall be subject to judicial inquiry by the state supreme court as to the existence of the facts underlying the issuance of the proclamation and whether such action was reasonable under the circumstances.

Violation and penalty.

Section 8. Any person violating any of the rules, regulations or orders adopted and promulgated under section 6 of this act shall, upon conviction thereof, be subject to a fine of not to exceed ten thousand dollars ($10,000) or to a term of imprisonment of not to exceed five (5) years, or both.

Approved: March 2, 1967.

CHAPTER 298

An Act to Direct the State Controller to Supervise Procurement of Data Processing Equipment and Major Office Equipment, Amending Section 82-3306, R.C.M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 82-3306, R.C.M. 1947, is amended to read as follows:

Supervision of mailing facilities —data processing, computer, duplicating, copying and automatic typing facilities.

"82-3306. **Supervision of mailing facilities**—*data processing, computer, duplicating, copying, and automatic typing facilities.*

(1) The controller shall maintain and supervise any central mailing facilities for state agencies in the capitol area.

(2) The controller shall establish regulations governing the procurement of data processing equipment, duplicating and copying equipment, and equipment generally prescribed for automatic typing. The regulations of the state controller shall be formulated with the advice of a committee consisting of the budget director, a representative of the board of regents, a representative of the state highway commission, and two (2) members appointed by the other three, and one (1) of the appointed members shall have special knowledge or experience with data processing equipment and one (1) shall have special knowledge or

HeinOnline -- 1967 vol. II 923 1967

experience with the other named office equipment. Within these regulations the controller shall supervise the procurement and location of the herein named equipment for all state agencies, other than the department of public instruction."

Approved: March 2, 1967.

CHAPTER 299

An Act to Provide a Uniform Method of Appeal for University Students Classified as Nonresidents for Tuition Purposes; and Amending Sections 75-506.3 and 75-506.4, R.C.M. 1947, Enacted as Sections 2 and 3 of Chapter 164, Laws of 1965, Relating to Rules for Determining Resident Status of University Students, to Enlarge the Definition of Persons Presumed to be Residents.

Be it enacted by the Legislative Assembly of the State of Montana:

Additional section.

Section 1. There is hereby added a section to chapter 5 of title 75, R.C.M. 1947, to be numbered section 75-506.7, and to read as follows:

Appeal.

75-506.7. **Appeal.** Any student whose request for classification as a resident student is denied by the registering authority of a unit of the Montana university system shall have the right of automatic appeal from such denial to the executive secretary of the regents of the Montana university system. Immediately upon rejection of such a request, the registering authority shall forward a copy of his decision, together with his complete file on the student requesting resident status to the executive secretary. The executive secretary may accept other evidence of residence from either the student, the registering authority, or other interested persons. Within thirty (30) days of the receipt of the decision of the registering authority, the executive secretary shall determine the resident status of the student and shall notify the student and the registering authority of his decision, which may be appealed to the full board of regents if said board in its discretion, agrees to entertain such an appeal.

Amending clause.

Section 2. Section 75-506.3, R.C.M. 1947, enacted as section 2 of chapter 164, Laws of 1965, is amended to read as follows:

HeinOnline -- 1967 vol. II 924 1967

"75-506.3. **Definition of terms.** Wherever used in this act: 'Unit' shall mean a unit of the Montana *university system.* 'Resident student' shall mean a student who has been domiciled in Montana for one *(1)* year or more immediately preceding registration at any unit of the Montana *university system* for any term or session for which resident classification is claimed, provided, that *attendance in Montana as a full or part time student at any college, university, or other institution of higher education shall not alone be sufficient to qualify for residence in Montana. Any graduate of a Montana high school whose parents, parent or guardian have resided in the state of Montana at least one (1) of the two (2) years immediately preceding his graduation from high school shall also be entitled to classification as a resident student for tuition and fee purposes, provided that said student's parents or guardian have not established a domicile in another state which will give him the right to be classified as a resident student in that state.*

Definitions.
"Unit."
"Resident student."

'Domicile' shall mean a person's true, fixed, and permanent home and place of habitation.

"Domicile."

'Minor' shall mean a male or female person who has not obtained the age of twenty-one *(21)* years.

"Minor."

'Qualified person' shall mean a person legally qualified to determine his own domicile.

"Qualified person."

'Emancipated minor' shall mean a person under the age of twenty-one (21) years who supports himself from his own earnings or is married. Any person who receives more than twenty-five percent (25%) of the cost of supporting himself from any person other than an agency of the government shall not be considered an 'emancipated minor' under this act."

"Emancipated minor."

Section 3. Section 75-506.4, R.C.M. 1947, enacted as section 3 of Chapter 164, Laws of 1965, is amended to read as follows:

Amending clause.

"75-506.4. **Presumptions as to domicile.** Unless the contrary appears to the satisfaction of the registering authority of the unit at which a student is registering, it shall be presumed that:

Presumptions as to domicile.

(1) The domicile of a minor is that of his father, or if no father that of his mother, or if there is a guardian of

HeinOnline -- 1967 vol. II 925 1967

his person that of such guardian; provided that the court appointing such guardian shall certify that the primary purpose of such appointment is not to qualify such minor as a resident of this state; or if one parent has custody of the minor that of such parent.

(2) The domicile of a married woman is normally that of her husband*; provided, however, that a resident woman student who marries a nonresident does not by that fact alone lose her resident status for tuition and fee purposes for a period of four (4) years after said marriage.*

(3) A person does not gain or lose resident status by reason of his presence in any state or country while a member of the armed forces of the United States; provided, that a member of the armed forces may obtain resident status for himself, his spouse, or his children, after living in Montana for one year, and complying with the provisions of this act.

(4) The establishment of a new domicile in Montana by a qualified person formerly domiciled in another state has occurred if he is physically present in Montana without a present intention to return to such other state or to acquire a domicile at some other place outside of Montana.

(5) Once established a domicile has not been lost by mere absence unaccompanied by intention to establish a new domicile.

(6) Any graduate of a Montana high school who shall apply for admittance to a unit of the Montana university system within one (1) year after his or her graduation and whose parent or parents, having custody of such graduate, has or have resided in the state of Montana in at least one (1) of the two (2) years immediately preceding such graduate's graduation from a Montana high school, shall be presumed to be a resident student for such time as he or she attends any unit of the university system during the regular school year for the next four (4) consecutive years or until his or her parent or parents, having custody, have established such residence in another state as will classify such student as a resident student of the latter state."

Approved: March 2, 1967.

HeinOnline -- 1967 vol. II 926 1967

CHAPTER 300

An Act for the Codification and General Revision of the Laws of Montana, Relating to Business Corporations for Profit; Amending Sections 25-102 and 93-4401, R.C.M. 1947, and Repealing Sections 15-101, 15-102, 15-103, 15-104, 15-105, 15-106, 15-107, 15-108, 15-109, 15-110, 15-111, 15-112, 15-113, 15-114, 15-115, 15-116, 15-117, 15-118, 15-121, 15-201, 15-202, 15-203, 15-204, 15-205, 15-206, 15-207, 15-208, 15-209, 15-210, 15-211, 15-212, 15-213, 15-214, 15-215, 15-216, 15-217, 15-218, 15-219, 15-220, 15-221, 15-222, 15-223, 15-224, 15-225, 15-301, 15-302, 15-303, 15-401, 15-402, 15-403, 15-404, 15-405, 15-406, 15-407, 15-408, 15-409, 15-410, 15-411, 15-412, 15-501, 15-502, 15-503, 15-504, 15-505, 15-506, 15-507, 15-508, 15-509, 15-601, 15-602, 15-604, 15-606, 15-607, 15-608, 15-609, 15-610, 15-611, 15-612, 15-613, 15-614, 15-615, 15-616, 15-617, 15-618, 15-619, 15-620, 15-621, 15-622, 15-623, 15-624, 15-625, 15-626, 15-627, 15-701, 15-702, 15-703, 15-704, 15-705, 15-706, 15-707, 15-708, 15-709, 15-710, 15-711, 15-712, 15-713, 15-714, 15-715, 15-716, 15-717, 15-718, 15-719, 15-720, 15-721, 15-801, 15-802, 15-803, 15-804, 15-805, 15-806, 15-807, 15-808, 15-809, 15-810, 15-811, 15-901, 15-902, 15-903, 15-904, 15-905, 15-906, 15-907, 15-908, 15-909, 15-910, 15-911, 15-912, 15-913, 15-1001, 15-1002, 15-1101, 15-1102, 15-1103, 15-1104, 15-1105, 15-1106, 15-1107, 15-1108, 15-1109, 15-1110, 15-1111, 15-1112, 15-1113, 15-1114, 15-1115, 15-1116, 15-1117, 15-1118, 15-1119, 15-1120, 15-1121, 15-1122, 15-1123, 15-1124, 15-1125, 15-1126, 15-1127, 15-1128, 15-1129, 15-1130, 15-1131, 15-1201, 15-1202, 15-1601, 15-1602, 15-1603, 15-1701, 15-1702, 15-1703, 15-1704, 15-1705, 15-1706, 15-1707, 15-1708, 15-1709, 15-1710, 15-1711, 15-1712, 15-1713, 15-1801, 15-1802, 15-1803, 15-1804, 15-1805, 15-1806, 15-1807, 15-1901, 15-1902, 15-1903, 15-1904, 15-1905, 15-1906, 15-1907, 15-1908, 25-103, 25-104, 25-105, 25-106, 25-107, 25-108, 25-109, and 93-4342 R.C.M. 1947; and Providing an Effective Date.

It is the intent of the legislative assembly that this bill be codified as one chapter of title 15, Revised Codes of Montana, 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

"Montana Business Corporation Act."

Section 1. **Short title.** This act shall be known and may be cited as the "Montana Business Corporation Act."

HeinOnline -- 1967 vol. II 927 1967

Definitions.

Section 2. **Definitions.** As used in this act, unless the context otherwise requires, the term:

"Corporation" or "domestic corporation."

(a) "Corporation" or "domestic corporation" means a corporation for profit subject to the provisions of this act, except a foreign corporation.

"Foreign corporation."

(b) "Foreign corporation" means a corporation for profit organized under laws other than the laws of this state for a purpose or purposes for which a corporation may be organized under this act.

"Articles of incorporation."

(c) "Articles of incorporation" means the original or restated articles of incorporation or articles of consolidation and all amendments thereto including articles of merger.

"Shares."

(d) "Shares" means the units into which the proprietary interests in a corporation are divided.

"Subscriber."

(e) "Subscriber" means one who subscribes for shares in a corporation, whether before or after incorporation.

"Shareholder."

(f) "Shareholder" means one who is a holder of record of shares in a corporation.

"Authorized shares."

(g) "Authorized shares" means the shares of all classes which the corporation is authorized to issue.

"Treasury shares."

(h) "Treasury shares" means shares of a corporation which have been issued, have been subsequently acquired by and belong to the corporation, and have not, either by reason of the acquisition or thereafter, been cancelled or restored to the status of authorized but unissued shares. Treasury shares shall be deemed to be "issued" shares, but not "outstanding" shares.

"Net assets."

(i) "Net assets" means the amount by which the total assets of a corporation, excluding treasury shares, exceed the total debts of the corporation.

"Stated capital."

(j) "Stated capital" means, at any particular time,

(1) the sum of the par value of all shares of the corporation having a par value that have been issued,

(2) the amount of the consideration received by the corporation for all shares of the corporation without par value that have been issued, except such part of the con-

HeinOnline -- 1967 vol. II 928 1967

sideration therefor as may have been allocated to capital surplus in a manner permitted by law, and

(3) such amounts not included in clauses (1) and (2) of this paragraph as have been transferred to stated capital of the corporation, whether upon the issue of shares as a share dividend or otherwise, minus all reductions from such sum as have been effected in a manner permitted by law. Irrespective of the manner of designation thereof by the laws under which a foreign corporation is organized, the stated capital of a foreign corporation shall be determined on the same basis and in the same manner as the stated capital of a domestic corporation, for the purpose of computing fees, franchise taxes and other charges imposed by this act.

(k) "Surplus" means the excess of the net assets of a corporation over its stated capital. "Surplus."

(l) "Earned surplus" means the portion of the surplus of a corporation equal to the balance of its net profits, income, gains and losses from the date of incorporation, or from the latest date when a deficit was eliminated by an application of its capital surplus or stated capital or otherwise, after deducting subsequent distributions to shareholders and transfers to stated capital and capital surplus to the extent such distributions and transfers are made out of earned surplus. Earned surplus shall include also any portion of surplus allocated to earned surplus in mergers, consolidations or acquisitions of all or substantially all of the outstanding shares or of the property and assets of another corporation, domestic or foreign. "Earned surplus."

(m) "Capital surplus" means the entire surplus of a corporation other than its earned surplus. "Capital surplus."

(n) "Insolvent" means inability of a corporation to pay its debts as they become due in the usual course of its business. "Insolvent."

(o) "Filed" with the secretary of state shall be deemed to be the time of receipt of a document by him, if he subsequently finds that it conforms to law. Such finding shall relate back to the time of receipt, but receipt by the secretary of state shall not of itself constitute "filing" under this act. "Filed."

Section 3. **Purposes.** Corporations may be organized under this act for any lawful purpose or purposes, except for the purpose of banking or insurance. Purposes.

HeinOnline -- 1967 vol. II 929 1967

General powers.

Section 4. **General powers.** Each corporation shall have power:

(a) To have perpetual existence by its corporate name unless a limited period of duration is stated in its articles of incorporation.

(b) To sue and be sued, complain and defend, in its corporate name.

(c) To have a corporate seal which may be altered at pleasure, and to use the same by causing it, or a facsimile thereof, to be impressed or affixed or in any other manner reproduced.

(d) To purchase, take, receive, lease, or otherwise acquire, own, hold, improve, use and otherwise deal in and with, real or personal property, or any interest therein, wherever situated, and to acquire property by proceedings in eminent domain.

(e) To sell, convey, mortgage, pledge, lease, exchange, transfer and otherwise dispose of all or any part of its property and assets.

(f) To lend money to, to guarantee the obligations of and to otherwise assist its employes and, upon the affirmative vote of the holders of a majority of the outstanding shares of the corporation which are entitled to vote for directors, to lend money to, to guarantee the obligations of and to otherwise assist its directors and officers, but no loans shall be made by a corporation secured by its shares.

(g) To purchase, take, receive, subscribe for, or otherwise acquire, own, hold, vote, use, employ, sell, mortgage, lend, pledge, or otherwise dispose of, and otherwise use and deal in and with, shares or other interests in, or obligations of, other domestic or foreign corporations, associations, partnerships, joint ventures, cooperatives or individuals, or direct or indirect obligations of the United States or of any other government, state, territory, governmental district or municipality or of any instrumentality thereof.

(h) To make contracts and guarantees and incur liabilities, borrow money at such rates of interest as the corporation may determine, issue its notes, bonds, and other obligations, and secure any of its obligations by

HeinOnline -- 1967 vol. II 930 1967

mortgage or pledge of all or any of its property, franchises and income.

(i) To lend money for its corporate purposes, invest and reinvest its funds, and take and hold real and personal property as security for the payment of funds so loaned or invested.

(j) To conduct its business, carry on its operations, and have offices and exercise the powers granted by this act in any state, territory, district, or possession of the United States, or in any foreign country.

(k) To elect or appoint officers and agents of the corporation, and define their duties and fix their compensation.

(l) To make and alter bylaws, not inconsistent with its articles of incorporation or with the laws of this state, for the administration and regulation of the affairs of the corporation.

(m) To make donations for the public welfare or for charitable, religious, scientific or educational purposes, and in time of war to make donations in aid of war activities.

(n) In time of war to transact any lawful business in aid of the United States in the prosecution of the war.

(o) To indemnify any director or officer or former director or officer of the corporation, or any person who may have served at its request as a director or officer of another corporation in which it owns shares of capital stock or of which it is a creditor, against claims, liabilities, expenses and costs necessarily incurred by him in connection with the defense, compromise or settlement of any action, suit or proceeding, civil or criminal, in which he is made a party by reason of being or having been such director or officer, except in relation to matters as to which he shall be adjudged in such action, suit or proceeding to be liable for negligence or misconduct in the performance of duty to the corporation, and to make any other indemnification that shall be authorized by the articles of incorporation or by any bylaw or resolution adopted by the shareholders after notice.

(p) To pay pensions and retirement benefits and establish pension plans, pension trusts, profit-sharing

HeinOnline -- 1967 vol. II 931 1967

plans, stock bonus plans, stock option plans, insurance plans, and incentive plans for any or all of its directors, officers and employees.

(q) To cease its corporate activities and surrender its corporate franchise.

(r) To have and exercise all powers necessary or convenient to effect any or all of the purposes for which the corporation is organized.

Right of corporation to acquire and dispose of its own shares.

Section 5. **Right of corporation to acquire and dispose of its own shares.** A corporation shall have the right to purchase, take, receive or otherwise acquire, hold, own, pledge, transfer or otherwise dispose of its own shares, but purchases of its own shares, whether direct or indirect, shall be made only to the extent of unreserved and unrestricted earned surplus available therefor, and, if the articles of incorporation so permit or with the affirmative vote of the holders of at least two-thirds (2/3) of all shares entitled to vote thereon, to the extent of unreserved and unrestricted capital surplus available therefor.

To the extent that earned surplus or capital surplus is used as the measure of the corporation's right to purchase its own shares, such surplus shall be restricted so long as such shares are held as treasury shares, and upon the disposition or cancellation of any such shares the restriction shall be removed pro tanto.

Notwithstanding the foregoing limitation, a corporation may purchase or otherwise acquire its own shares for the purpose of:

(a) Eliminating fractional shares.

(b) Collecting or compromising indebtedness to the corporation.

(c) Paying dissenting shareholders entitled to payment for their shares under the provisions of this act.

(d) Effecting, subject to the other provisions of this act, the retirement of its redeemable shares by redemption or by purchase at not to exceed the redemption price.

No purchase of or payment for its own shares shall be made at a time when the corporation is insolvent or when such purchase or payment would make it insolvent.

HeinOnline -- 1967 vol. II 932 1967

Defense of ultra vires.

Section 6. **Defense of ultra vires.** No act of a corporation and no conveyance or transfer of real or personal property to or by a corporation shall be invalid by reason of the fact that the corporation was without capacity or power to do such act or to make or receive such conveyance or transfer, but such lack of capacity or power may be asserted:

(a) In a proceeding by a shareholder against the corporation to enjoin the doing of any act or acts or the transfer of real or personal property by or to the corporation. If the unauthorized acts or transfer sought to be enjoined are being, or are to be, performed or made pursuant to any contract to which the corporation is a party, the court may, if all of the parties to the contract are parties to the proceeding and if it deems the same to be equitable, set aside and enjoin the performance of such contract, and in so doing may allow to the corporation or to the other parties to the contract, as the case may be, compensation for the loss or damage sustained by either of them which may result from the action of the court in setting aside and enjoining the performance of such contract, but anticipated profits to be derived from the performance of the contract shall not be awarded by the court as a loss or damage sustained.

(b) In a proceeding by the corporation, whether acting directly or through a receiver, trustee, or other legal representative, or through shareholders in a representative suit, against the incumbent or former officers or directors of the corporation.

(c) In a proceeding by the attorney general, as provided in this act, to dissolve the corporation, or in a proceeding by the attorney general to enjoin the corporation from the transaction of unauthorized business.

Corporate name.

Section 7. **Corporate name.** The corporate name:

(a) Shall not contain any word or phrase which indicates or implies that it is organized for any purpose other than one or more of the purposes contained in its articles of incorporation.

(b) Shall not be the same as, or deceptively similar to, the name of any domestic corporation existing under the laws of this state or any foreign corporation authorized to transact business in this state, or a name the ex-

HeinOnline -- 1967 vol. II 933 1967

clusive right to which is, at the time, reserved in the manner provided in this act, or the name of a corporation which has in effect a registration of its corporate name as provided in this act.

Reserved name.

Section 8. **Reserved name.** The exclusive right to the use of a corporate name may be reserved by:

(a) Any person intending to organize a corporation under this act.

(b) Any domestic corporation intending to change its name.

(c) Any foreign corporation intending to make application for a certificate of authority to transact business in this state.

(d) Any foreign corporation authorized to transact business in this state and intending to change its name.

(e) Any person intending to organize a foreign corporation and intending to have such corporation make application for a certificate of authority to transact business in this state.

The reservation shall be made by filing with the secretary of state an application to reserve a specified corporate name, executed by the applicant. If the secretary of state finds that the name is available for corporate use, he shall reserve the same for the exclusive use of the applicant for a period of one hundred twenty (120) days.

The right to the exclusive use of a specified corporate name so reserved may be transferred to any other person or corporation by filing in the office of the secretary of state a notice of such transfer, executed by the applicant for whom the name was reserved, and specifying the name and address of the transferee.

Registered name.

Section 9. **Registered name.** Any corporation organized and existing under the laws of any state or territory of the United States may register its corporate name under this act, provided its corporate name is not the same, as or deceptively similar to, the name of any domestic corporation existing under the laws of this state, or the name of any foreign corporation authorized to transact business in this state, or any corporate name reserved or registered under this act.

HeinOnline -- 1967 vol. II 934 1967

Such registration shall be made by:

(a) Filing with the secretary of state

(1) an application for registration executed by the corporation by an officer thereof, setting forth the name of the corporation, the state or territory under the laws of which it is incorporated, the date of its incorporation, a statement that it is carrying on or doing business, and a brief statement of the business in which it is engaged, and

(2) a certificate setting forth that such corporation is in good standing under the laws of the state or territory wherein it is organized, executed by the secretary of state of such state or territory or by such other official as may have custody of the records pertaining to corporations.

(b) Paying to the secretary of state a registration fee in the amount of one dollar ($1) for each month, or fraction thereof, between the date of filing such application and December 31 of the calendar year in which such application is filed.

Such registration shall be effective until the close of the calendar year in which the application for registration is filed.

Renewal of registered name.

Section 10. **Renewal of registered name.** A corporation which has in effect a registration of its corporate name, may renew such registration from year to year by annually filing an application for renewal setting forth the facts required to be set forth in an original application for registration and a certificate of good standing as required for the original registration and by paying a fee of ten dollars ($10). A renewal application may be filed between October 1 and December 31 in each year, and shall extend the registration for the following calendar year.

Registered office and registered agent.

Section 11. **Registered office and registered agent.** Each corporation shall have and continuously maintain in this state:

(a) A registered office which may be, but need not be, the same as its place of business.

(b) A registered agent, which agent may be either an individual resident in this state whose business office

HeinOnline -- 1967 vol. II 935 1967

is identical with such registered office, or a domestic corporation, or a foreign corporation authorized to transact business in this state, having a business office identical with such registered office.

Change of registered office or registered agent.

Section 12. **Change of registered office or registered agent.** A corporation may change its registered office or change its registered agent, or both, upon filing in the office of the secretary of state a statement setting forth:

(a) The name of the corporation.

(b) The address of its then registered office.

(c) If the address of its registered office be changed, the address to which the registered office is to be changed.

(d) The name of its then registered agent.

(e) If its registered agent be changed, the name of its successor registered agent.

(f) That the address of its registered office and the address of the business office of its registered agent, as changed, will be identical.

(g) That such change was authorized by resolution duly adopted by its board of directors.

Such statement shall be executed for the corporation by any officer thereof, verified by him, and delivered to the secretary of state. If the secretary of state finds that such statement conforms to the provisions of this act, he shall, when all fees have been paid as in this act prescribed, file such statement in his office, and upon filing the change of address of the registered office, or the appointment of a new registered agent, or both, as the case may be, shall become effective.

Any registered agent of a corporation may resign as such agent upon filing a written notice thereof, executed in duplicate, with the secretary of state, who shall forthwith mail a copy thereof to the corporation at its registered office. The appointment of such agent shall terminate upon the expiration of thirty days after receipt of such notice by the secretary of state.

If a registered agent changes his or its business address to another place within the same country, he or it may

HeinOnline -- 1967 vol. II 936 1967

change such address and the address of the registered office of any corporations of which he or it is registered agent by filing a statement as required above except that it need be signed only by the registered agent and need not be responsive to (e) or (g) and must recite that a copy of the statement has been mailed to each such corporation.

Service of process upon corporation.

Section 13. **Service of process upon corporation.** Service of process upon a corporation shall be effected upon the persons and in the manner provided by the Montana Rules of Civil Procedure.

Authorized shares.

Section 14. **Authorized shares.** Each corporation shall have power to create and issue the number of shares stated in its articles of incorporation. Such shares may be divided into one or more classes, any or all of which classes may consist of shares with par value or shares without par value, with such designations, preferences, limitations, and relative rights as shall be stated in the articles of incorporation. The articles of incorporation may limit or deny the voting rights of or provide special voting rights for the shares of any class to the extent not inconsistent with the provisions of this act or the constitution of Montana.

Without limiting the authority herein contained, a corporation, when so provided in its articles of incorporation, may issue shares of preferred or special classes:

(a) Subject to the right of the corporation to redeem any of such shares at the price fixed by the articles of incorporation for the redemption thereof.

(b) Entitling the holders thereof to cumulative, noncumulative or partially cumulative dividends.

(c) Having preference over any other class or classes of shares as to the payment of dividends.

(d) Having preference in the assets of the corporation over any other class or classes of shares upon the voluntary or involuntary liquidation of the corporation.

(e) Convertible into shares of any other class or into shares of any series of the same or any other class, except a class having prior or superior rights and preferences as to dividends or distribution of assets upon liquidation, but shares without par value shall not be converted into

HeinOnline -- 1967 vol. II 937 1967

shares with par value unless that part of the stated capital of the corporation represented by such shares without par value is, at the time of conversion, at least equal to the aggregate par value of the shares into which the shares without par value are to be converted.

(f) When authorized by its articles of incorporation to do so, a corporation may issue bonds, debentures or other obligations convertible into shares of any class, in the amounts and on such terms and conditions as may be provided by resolutions of the board of directors.

Issuance of shares of preferred or special classes in series.

Section 15. **Issuance of shares of preferred or special classes in series.** If the articles of incorporation so provide, the shares of any preferred or special class may be divided into and issued in series. If the shares of any such class are to be issued in series, then each series shall be so designated as to distinguish the shares thereof from the shares of all other series and classes. Any or all of the series of any such class and the variations in the relative rights and preferences as between different series may be fixed and determined by the articles of incorporation, but all shares of the same class shall be identical except as to the following relative rights and preferences, as to which there may be variations between different series:

A. The rate of dividend.

B. Whether shares may be redeemed and, if so, the redemption price and the terms and conditions of redemption.

C. The amount payable upon shares in event of voluntary and involuntary liquidation.

D. Sinking fund provisions, if any, for the redemption or purchase of shares.

E. The terms and conditions, if any, on which shares may be converted.

If the articles of incorporation shall expressly vest authority in the board of directors, then, to the extent that the articles of incorporation shall not have established series and fixed and determined the variations in the relative rights and preferences as between series, the board of directors shall have authority to divide any or all of such classes into series and, within the limitations

HeinOnline -- 1967 vol. II 938 1967

set forth in this section and in the articles of incorporation, fix and determine the relative rights and preferences of the shares of any series so established.

In order for the board of directors to establish a series, where authority so to do is contained in the articles of incorporation, the board of directors shall adopt a resolution setting forth the designation of the series and fixing and determining the relative rights and preferences thereof, or so much thereof as shall not be fixed and determined by the articles of incorporation.

Prior to the issue of any shares of a series established by resolution adopted by the board of directors, the corporation shall file in the office of the secretary of state a statement setting forth:

(a) The name of the corporation.

(b) A copy of the resolution establishing and designating the series, and fixing and determining the relative rights and preferences thereof.

(c) The date of adoption of such resolution.

(d) That such resolution was duly adopted by the board of directors.

Such statement shall be executed in duplicate by the corporation by its president or a vice president and by its secretary or an assistant secretary, and verified by one of the officers signing such statement, and shall be delivered to the secretary of state. If the secretary of state finds that such statement conforms to law, he shall, when all fees have been paid as in this act prescribed:

(1) Endorse on each of such duplicate originals the word "filed," and the month, day, and year of the filing thereof.

(2) File one of such duplicate originals in his office.

(3) Return the other duplicate original to the corporation or its representative.

Upon the filing of such statement by the secretary of state, the resolution establishing and designating the series and fixing and determining the relative rights and preferences thereof shall become effective and shall constitute an amendment of the articles of incorporation.

HeinOnline -- 1967 vol. II 939 1967

Subscriptions for shares.

Section 16. **Subscriptions for shares.** A subscription for shares of a corporation to be organized shall be irrevocable for a period of six (6) months, unless otherwise provided by the terms of the subscription agreement or unless all of the subscribers consent to the revocation of such subscription.

Unless otherwise provided in the subscription agreement, subscriptions for shares, whether made before or after the organization of a corporation, shall be paid in full at such time, or in such installments and at such times, as shall be determined by the board of directors. Any call made by the board of directors for payment on subscriptions shall be uniform as to all shares of the same class or as to all shares of the same series, as the case may be. In case of default in the payment of any installment or call when such payment is due, the corporation may proceed to collect the amount due in the same manner as any debt due the corporation. The bylaws may prescribe other penalties for failure to pay installments or calls that may become due, but no penalty working a forfeiture of a subscription or of the amounts paid thereon, shall be declared as against any subscriber unless the amount due thereon shall remain unpaid for a period of twenty (20) days after written demand has been made therefor. If mailed, such written demand shall be deemed to be made when deposited in the United States mail in a sealed envelope addressed to the subscriber at his last post-office address known to the corporation, with postage thereon prepaid. In the event of the sale of any shares by reason of any forfeiture, the excess of proceeds realized over the amount due and unpaid on such shares shall be paid to the delinquent subscriber or to his legal representative.

Consideration for shares.

Section 17. **Consideration for shares.** Shares having a par value may be issued for such consideration expressed in dollars, not less than the par value thereof, as shall be fixed from time to time by the board of directors.

Shares without par value may be issued for such consideration expressed in dollars as may be fixed from time to time by the board of directors unless the articles of incorporation reserve to the shareholders the right to fix the consideration. In the event that such right be reserved as to any shares, the shareholders shall, prior to the issuance of such shares, fix the consideration to be

HeinOnline -- 1967 vol. II 940 1967

received for such shares by a vote of the holders of a majority of all shares entitled to vote thereon.

Treasury shares may be disposed of by the corporation for such consideration expressed in dollars as may be fixed from time to time by the board of directors.

That part of the surplus of a corporation which is transferred to stated capital upon the issuance of shares as a share dividend shall be deemed to be the consideration for the issuance of such shares.

In the event of a conversion of shares, or in the event of an exchange of shares with or without par value for the same or a different number of shares with or without par value, whether of the same or a different class or classes, the consideration for the shares so issued in exchange or conversion shall be deemed to be (1) the stated capital then represented by the shares so exchanged or converted, and (2) that part of surplus, if any, transferred to stated capital upon the issuance of shares for the shares so exchanged or converted, and (3) any additional consideration paid to the corporation upon the issuance of shares for the shares so exchanged or converted.

Payment for shares; stock rights and options.

Section 18. **Payment for shares; stock rights and options.** The consideration for the issuance of shares may be paid, in whole or in part, in money, in other property, tangible or intangible, or in labor or services actually performed for the corporation. When payment of the consideration for which shares are to be issued shall have been received by the corporation, such shares shall be deemed to be fully paid and nonassessable.

Neither promissory notes nor future services shall constitute payment or part payment for shares of a corporation.

In the absence of fraud in the transaction, the judgment of the board of directors or the shareholders, as the case may be, as to the value of the consideration received for shares shall be conclusive.

Subject to any provisions in respect thereof set forth in its articles of incorporation, a corporation may create and issue, whether or not in connection with the issuance and sale of any of its shares or other securities, rights or

HeinOnline -- 1967 vol. II 941 1967

options entitling the holders thereof to purchase from the corporation shares of any class or classes. Such rights or options shall be evidenced in such manner as the board of directors shall approve and, subject to the provisions of the articles of incorporation, shall set forth the terms upon which, the time or times within which and the price or prices at which such shares may be purchased from the corporation upon the exercise of any such right or option. If such rights or options are to be issued to directors, officers or employees as such of the corporation or of any subsidiary thereof, and not to the shareholders generally, their issuance shall be approved by the affirmative vote of the holders of a majority of the shares entitled to vote thereon or shall be authorized by and consistent with a plan theretofore approved by such a vote of shareholders and set forth or incorporated by reference in the instrument evidencing each such right or option. In the absence of fraud in the transaction, the judgment of the board of directors as to the adequacy of the consideration received for such rights or options shall be conclusive. The price or prices to be received for any shares having a par value, other than treasury shares to be issued upon the exercise of such rights or options, shall not be less than the par value thereof.

Determination of amount of stated capital.

Section 19. **Determination of amount of stated capital.** In case of the issuance by a corporation of shares having par value, the consideration received therefor shall constitute stated capital to the extent of the par value of such shares, and the excess, if any of such consideration shall constitute capital surplus.

In case of the issuance by a corporation of shares without par value, the entire consideration received therefor shall constitute stated capital unless the corporation shall determine as provided in this section that only a part thereof shall be stated capital. Within a period of sixty (60) days after the issuance of any shares without par value, the board of directors may allocate to capital surplus any portion of the consideration received for the issuance of such shares. No such allocation shall be made of any portion of the consideration received for shares without par value having a preference in the assets of the corporation in the event of involuntary liquidation except the amount, if any, of such consideration in excess of such preference.

HeinOnline -- 1967 vol. II 942 1967

If shares have been or shall be issued by a corporation in merger or consolidation or in acquisition of all or substantially all of the outstanding shares or of the property and assets of another corporation, whether domestic or foreign, any amount that would otherwise constitute capital surplus under the foregoing provisions of this section may instead be allocated to earned surplus by the board of directors of the issuing corporation except that its aggregate earned surplus shall not exceed the sum of the earned surpluses as defined in this act of the issuing corporation and of all other corporations, domestic or foreign, that were merged or consolidated or of which the shares or assets were acquired.

The stated capital of a corporation may be increased from time to time by resolution of the board of directors directing that all or a part of the surplus of the corporation be transferred to stated capital. The board of directors may direct that the amount of the surplus so transferred shall be deemed to be stated capital in respect of any designated class of shares.

Expenses of organization, reorganization and financing.

Section 20. **Expenses of organization, reorganization and financing.** The reasonable charges and expenses of organization or reorganization of a corporation, and the reasonable expenses of and compensation for the sale or underwriting of its shares, may be paid or allowed by such corporation out of the consideration received by it in payment for its shares without thereby rendering such shares not fully paid or assessable.

Certificates representing shares.

Section 21. **Certificates representing shares.** The shares of a corporation shall be represented by certificates signed by the president or a vice-president and the secretary or an assistant secretary of the corporation, and may be sealed with the seal of the corporation or a facsimile thereof. The signatures of the president or vice-president and the secretary or assistant secretary upon a certificate may be facsimiles if the certificate is countersigned by a transfer agent, or registered by a registrar, other than the corporation itself or an employee of the corporation. In case any officer who has signed or whose facsimile signature has been placed upon such certificate shall have ceased to be such officer before such certificate is issued, it may be issued by the corporation with the same effect as if he were such officer at the date of its issue.

HeinOnline -- 1967 vol. II 943 1967

Every certificate representing shares issued by a corporation which is authorized to issue shares of more than one class shall set forth upon the face or back of the certificate, or shall state that the corporation will furnish to any shareholder upon request and without charge, a full statement of the designations, preferences, limitations, and relative rights of the shares of each class authorized to be issued and, if the corporation is authorized to issue any preferred or special class in series, the variations in the relative rights and preferences between the shares of each such series so far as the same have been fixed and determined and the authority of the board of directors to fix and determine the relative rights and preferences of subsequent series.

Each certificate representing shares shall state upon the face thereof:

(a) That the corporation is organized under the laws of this state.

(b) The name of the person to whom issued.

(c) The number and class of shares, and the designation of the series, if any, which such certificate represents.

(d) The par value of each share represented by such certificate, or a statement that the shares are without par value.

No certificate shall be issued for any share until such share is fully paid.

Issuance of fractional shares or scrip.

Section 22. **Issuance of fractional shares or scrip.** A corporation may, but shall not be obliged to, issue a certificate for a fractional share, and, by action of its board of directors, may issue in lieu thereof scrip in registered or bearer form which shall entitle the holder to receive a certificate for a full share upon the surrender of such scrip aggregating a full share. A certificate for a fractional share shall, but scrip shall not unless otherwise provided therein, entitle the holder to exercise voting rights, to receive dividends thereon, and to participate in any of the assets of the corporation in the event of liquidation. The board of directors may cause such scrip to be issued subject to the condition that it shall become void if not exchanged for certificates representing full

HeinOnline -- 1967 vol. II 944 1967

shares before a specified date, or subject to the condition that the shares for which such scrip is exchangeable may be sold by the corporation and the proceeds thereof distributed to the holders of such scrip, or subject to any other conditions which the board of directors may deem advisable.

Liability of subscribers and shareholders.

Section 23. **Liability of subscribers and shareholders.** A holder of or subscriber to shares of a corporation shall be under no obligation to the corporation or its creditors with respect to such shares other than the obligation to pay to the corporation the full consideration for which such shares were issued or to be issued.

Any person becoming an assignee or transferee of shares or of a subscription for shares in good faith and without knowledge or notice that the full consideration therefor has not been paid shall not be personally liable to the corporation or its creditors for any unpaid portion of such consideration.

An executor, administrator, conservator, guardian, trustee, assignee for the benefit of creditors, or receiver shall not be personally liable to the corporation as a holder of or subscriber to shares of a corporation but the estate and funds in his hands shall be so liable.

No pledgee or other holder of shares as collateral security shall be personally liable as a shareholder.

Shareholders' pre-emptive rights.

Section 24. **Shareholders' pre-emptive rights.** The shareholders of a corporation shall have no pre-emptive right to acquire unissued or treasury shares of the corporation, or obligations of the corporation convertible into such shares, except to the extent, if any, that such right is provided in the articles of incorporation.

Bylaws.

Section 25. **Bylaws.** The initial bylaws of a corporation shall be adopted by its board of directors. The power to alter, amend, or repeal the bylaws or adopt new bylaws shall be vested in the board of directors unless reserved to the shareholders by the articles of incorporation. The bylaws may contain any provisions for the regulation and management of the affairs of the corporation not inconsistent with law or the articles of incorporation.

Meetings of shareholders.

Section 26. **Meetings of shareholders.** Meetings of shareholders may be held at such place, either within or

HeinOnline -- 1967 vol. II 945 1967

without this state, as may be provided in the bylaws. In the absence of any such provision, all meetings shall be held at the registered office of the corporation.

An annual meeting of the shareholders shall be held at such time as may be provided in the bylaws. Failure to hold the annual meeting at the designated time shall not work a forfeiture or dissolution of the corporation.

Special meetings of the shareholders may be called by the president, the board of directors, the holders of not less than one-fourth (1/4) of all the shares entitled to vote at the meeting, or such other officers or persons as may be provided in the articles of incorporation or the bylaws.

Notice of shareholders' meetings.

Section 27. **Notice of shareholders' meetings.** Written notice stating the place, day and hour of the meeting and, in case of a special meeting, the purpose or purposes for which the meeting is called, shall be delivered not less than ten (10) nor more than fifty (50) days before the date of the meeting, either personally or by mail, by or at the direction of the president, the secretary, or the officer or persons calling the meting, to each shareholder of record entitled to vote at such meeting. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail addressed to the shareholder at his address as it appears on the stock transfer books of the corporation, with postage thereon prepaid.

Closing of transfer books and fixing record date.

Section 28. **Closing of transfer books and fixing record date.** For the purpose of determining shareholders entitled to notice of or to vote at any meeting of shareholders or any adjournment thereof, or entitled to receive payment of any dividend, or in order to make a determination of shareholders for any other proper purpose, the board of directors of a corporation may provide that the stock transfer books shall be closed for a stated period but not to exceed, in any case, fifty (50) days. If the stock transfer books shall be closed for the purpose of determining shareholders entitled to notice of or to vote at a meeting of shareholders, such books shall be closed for at least ten (10) days immediately preceding such meeting. In lieu of closing the stock transfer books, the bylaws, or in the absence of an applicable bylaw the board of directors, may fix in advance a date as the record date for any such determination of shareholders, such date in any case to be not more than fifty (50) days and,

HeinOnline -- 1967 vol. II 946 1967

in case of a meeting of shareholders, not less than ten (10) days prior to the date on which the particular action, requiring such determination of shareholders, is to be taken. If the stock transfer books are not closed and no record date is fixed for the determination of shareholders entitled to notice of or to vote at a meeting of shareholders, or shareholders entitled to receive payment of a dividend, the date on which notice of the meeting is mailed or the date on which the resolution of the board of directors declaring such dividend is adopted, as the case may be, shall be the record date for such determination of shareholders. When a determination of shareholders entitled to vote at any meeting of shareholders has been made as provided in this section, such determination shall apply to any adjournment thereof.

Voting list.

Section 29. **Voting list.** The officer or agent having charge of the stock transfer books for shares of a corporation shall make a complete list of the shareholders entitled to vote at such meeting or any adjournment thereof, arranged in alphabetical order, with the address of and the number of shares held by each. Such list shall be produced and kept open at the time and place of the meeting and shall be subject to the inspection of any shareholder during the whole time of the meeting for the purposes thereof.

Failure to comply with the requirements of this section shall not affect the validity of any action taken at such meeting.

An officer or agent having charge of the stock transfer books who shall fail to prepare the list of shareholders or produce and keep it open for inspection at the meeting, as provided in this section, shall be liable to any shareholder suffering damage on account of such failure, to the extent of such damage.

Quorum of shareholders.

Section 30. **Quorum of shareholders.** Unless otherwise provided in the articles of incorporation, a majority of the shares entitled to vote, represented in person or by proxy, shall constitute a quorum at a meeting of shareholders, but in no event shall a quorum consist of less than one-third (1/3) of the shares entitled to vote at the meeting. The shareholders present at a duly-organized meeting may continue to transact business until adjournment, notwithstanding the withdrawal of enough shareholders to leave less than a quorum.

HeinOnline -- 1967 vol. II 947 1967

If a quorum is present, the affirmative vote of the majority of the shares represented at the meeting and entitled to vote on the subject matter shall be the act of the shareholders, unless the vote of a greater number or voting by classes is required by this act or the articles of incorporation or bylaws.

If a meeting cannot be organized because a quorum has not attended, those present may adjourn the meeting from time to time until a quorum is present, when any business may be transacted that may have been transacted at the meeting as originally called.

Voting of shares.

Section 31. **Voting of shares.** Each outstanding share, regardless of class, shall be entitled to one (1) vote, and each fractional share shall be entitled to a corresponding fractional vote, on each matter submitted to a vote at a meeting of shareholders, except to the extent that the voting rights of the shares of any class or classes are limited or denied by the articles of incorporation as permitted by this act.

Neither treasury shares nor shares of its own stock held by the corporation in a fiduciary capacity, nor shares held by another corporation if a majority of the shares entitled to vote for the election of directors of such other corporation is held by the corporation, shall be voted at any meeting or counted in determining the total number of outstanding shares at any given time.

A shareholder may vote either in person or by proxy executed in writing by the shareholder or by his duly authorized attorney-in-fact. No proxy shall be valid after eleven (11) months from the date of its execution, unless otherwise provided in the proxy.

At each election for directors every shareholder entitled to vote at such election shall have the right to vote, in person or by proxy, the number of shares owned by him for as many persons as there are directors to be elected and for whose election he has a right to vote, or to cumulate his votes by giving one candidate as many votes as the number of such directors multiplied by the number of his shares shall equal, or by distributing such votes on the same principle among any number of such candidates.

Shares standing in the name of another corporation, domestic or foreign, may be voted by such officer, agent

HeinOnline -- 1967 vol. II 948 1967

or proxy as the bylaws of such corporation may prescribe, or, in the absence of such provisions, as the board of directors of such corporation may determine.

Shares held by an administrator, executor, guardian or conservator may be voted by him, either in person or by proxy, without a transfer of such shares into his name. Shares standing in the name of a trustee may be voted by him, either in person or by proxy, but no trustee shall be entitled to vote shares held by him without a transfer of such shares into his name.

Shares standing in the name of a receiver may be voted by such receiver, and shares held by or under the control of a receiver may be voted by such receiver without the transfer thereof into his name if authority so to do be contained in an appropriate order of the court by which such receiver was appointed.

A shareholder whose shares are pledged shall be entitled to vote such shares until the shares have been transferred into the name of the pledgee, and thereafter the pledgee shall be entitled to vote the shares so transferred.

On and after the date on which written notice of redemption of redeemable shares has been mailed to the holders thereof and a sum sufficient to redeem such shares has been deposited with a bank or trust company with irrevocable instruction and authority to pay the redemption price to the holders thereof upon surrender of certificates therefor, such shares shall not be entitled to vote on any matter and shall not be deemed to be outstanding shares.

Section 32. **Voting trust.** Any number of shareholders of a corporation may create a voting trust for the purpose of conferring upon a trustee or trustees the right to vote or otherwise represent their shares, for a period of not to exceed ten (10) years, by entering into a written voting trust agreement specifying the terms and conditions of the voting trust, by depositing a counterpart of the agreement with the corporation at its registered office, and by transferring their shares to such trustee or trustees for the purposes of the agreement. The counterpart of the voting trust agreement so deposited with the corporation shall be subject to the same right of examination

Voting trust.

HeinOnline -- 1967 vol. II 949 1967

by a shareholder of the corporation, in person or by agent or attorney, as are the books and records of the corporation, and shall be subject to examination by any holder of a beneficial interest in the voting trust, either in person or by agent or attorney, at any reasonable time for any proper purpose.

Board of directors.

Section 33. **Board of directors.** The business and affairs of a corporation shall be managed by a board of directors. Directors need not be residents of this state or shareholders of the corporation unless the articles of incorporation or bylaws so require. The articles of incorporation or bylaws may prescribe other qualifications for directors. The board of directors shall have authority to fix the compensation of directors unless otherwise provided in the articles of incorporation.

Number and election of directors.

Section 34. **Number and election of directors.** The number of directors of a corporation shall be not less than three (3). Subject to such limitation, the number of directors shall be fixed by the bylaws, except as to the number constituting the initial board of directors, which number shall be fixed by the articles of incorporation. The number of directors may be increased or decreased from time to time by amendment to the bylaws, but no decrease shall have the effect of shortening the term of any incumbent director. In the absence of a bylaw fixing the number of directors, the number shall be the same as that stated in the articles of incorporation. The names and addresses of the members of the first board of directors shall be stated in the articles of incorporation. Such persons shall hold office until the first annual meeting of shareholders, and until their successors shall have been elected and qualified. At the first annual meeting of shareholders and at each annual meeting thereafter the shareholders shall elect directors to hold office until the next succeeding annual meeting, except in case of the classification of directors as permitted by this act. Each director shall hold office for the term for which he is elected and until his successor shall have been elected and qualified.

Classification of directors.

Section 35. **Classification of directors.** When the board of directors shall consist of nine (9) or more members, in lieu of electing the whole number of directors annually, the articles of incorporation or the bylaws may provide that the directors be divided into either two (2)

HeinOnline -- 1967 vol. II 950 1967

or three (3) classes, each class to be as nearly equal in number as possible, the term of office of directors of the first class to expire at the first annual meeting of shareholders after their election, that of the second class to expire at the second annual meeting after their election, and that of the third class, if any, to expire at the third annual meeting after their election. At each annual meeting after such classification the number of directors equal to the number of the class whose term expires at the time of such meeting shall be elected to hold office until the second succeeding annual meeting, if there be two classes, or until the third succeeding annual meeting, if there be three classes. No classification of directors shall be effective prior to the first annual meeting of shareholders.

Vacancies; removal of directors.

Section 36. **Vacancies; removal of directors.** Any vacancy occurring in the board of directors may be filled by the affirmative vote of a majority of the remaining directors though less than a quorum of the board of directors. A director elected to fill a vacancy shall be elected for the unexpired term of his predecessor in office. Any directorship to be filled by reason of an increase in the number of directors may be filled by the board of directors for a term of office continuing only until the next election of directors by the shareholders. Any directorship to be filled by reason of the removal of one or more directors by the shareholders may be filled by election by the shareholders at the meeting at which the director or directors are removed.

At a meeting called expressly for that purpose, directors may be removed in the manner provided in this section. The entire board of directors may be removed, with or without cause, by a vote of the holders of a majority of the shares then entitled to vote at an election of directors.

If less than the entire board is to be removed, no one of the directors may be removed if the votes cast against his removal would be sufficient to elect him if then cumulatively voted at an election of the entire board of directors, or, if there be classes of directors, at an election of the class of directors of which he is a part.

Quorum of directors.

Section 37. **Quorum of directors.** A majority of the number of directors fixed by the bylaws, or in the absence of a bylaw fixing the number of directors, then of the

HeinOnline -- 1967 vol. II 951 1967

number stated in the articles of incorporation, shall constitute a quorum for the transaction of business unless a greater number is required by the articles of incorporation or the bylaws. The act of the majority of the directors present at a meeting at which a quorum is present shall be the act of the board of directors, unless the act of a greater number is required by the articles of incorporation or the bylaws.

Executive and other committees.

Section 38. **Executive and other committees.** If the articles of incorporation or the bylaws so provide, the board of directors, by resolution adopted by a majority of the full board of directors, may designate from among its members an executive committee and one or more other committees each of which, to the extent provided in such resolution or in the articles of incorporation or the bylaws of the corporation, shall have and may exercise all the authority of the board of directors, but no such committee shall have the authority of the board of directors in reference to amending the articles of incorporation, adopting a plan of merger or consolidation, recommending to the shareholders the sale, lease, exchange, or other disposition of all or substantially all the property and assets of the corporation otherwise than in the usual and regular course of its business, recommending to the shareholders a voluntary dissolution of the corporation or a revocation thereof, or amending the bylaws of the corporation. The designation of any such committee and the delegation thereto of authority shall not operate to relieve the board of directors, or any member thereof, of any responsibility imposed by law.

Place and notice of directors' meetings.

Section 39. **Place and notice of directors' meetings.** Meetings of the board of directors, regular or special, may be held either within or without this state.

Regular meetings of the board of directors may be held with or without notice as prescribed in the bylaws. Special meetings of the board of directors shall be held upon such notice as is prescribed in the bylaws. Attendance of a director at a meeting shall constitute a waiver of notice of such meeting, except where a director attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the board of directors need be specified in the

HeinOnline -- 1967 vol. II 952 1967

notice or waiver of notice of such meeting unless required by the bylaws.

Section 40. **Dividends.** The board of directors of a corporation may, from time to time, declare and the corporation may pay dividends on its outstanding shares in cash, property, or its own shares, except when the corporation is insolvent or when the payment thereof would render the corporation insolvent or when the declaration or payment thereof would be contrary to any restrictions contained in the articles of incorporation, subject to the following provisions:

Dividends.

(a) Dividends may be declared and paid in cash or property only out of the unreserved and unrestricted earned surplus of the corporation, or out of the unreserved and unrestricted net earnings of the current fiscal year and the next preceding fiscal year taken as a single period; provided, however, that if the stated capital of the corporation shall have been diminished by depreciation in the value of its property, or by losses, or otherwise, to an amount less than the aggregate amount of the stated capital represented by the issued and outstanding stock of all classes having a preference upon distribution of assets, such a dividend shall not be declared.

(b) If the articles of incorporation of a corporation engaged in the business of exploiting natural resources so provide, dividends may be declared and paid in cash out of the depletion reserves, but each such dividend shall be identified as a distribution of such reserves and the amount per share paid from such reserves shall be disclosed to the shareholders receiving the same; provided, however, that no such dividend shall be paid to the holders of any class of shares which would reduce the remaining net assets of the corporation below the aggregate preferential amount payable in the event of voluntary liquidation to the holders of shares having preferential rights to the assets of the corporation in the event of liquidation.

(c) Dividends may be declared and paid in its own shares out of any treasury shares that have been reacquired out of surplus of the corporation.

(d) Dividends may be declared and paid in its own authorized but unissued shares out of any unreserved and

HeinOnline -- 1967 vol. II 953 1967

unrestricted surplus of the corporation upon the following conditions:

(1) If a dividend is payable in its own shares having a par value, such shares shall be issued at not less than the par value thereof and there shall be transferred to stated capital at the time such dividend is paid an amount of surplus at least equal to the aggregate par value of the shares to be issued as a dividend.

(2) If a dividend is payable in its own shares without par value, such shares shall be issued at such stated value as shall be fixed by the board of directors by resolution adopted at the time such dividend is declared, and there shall be transferred to stated capital at the time such dividend is paid an amount of surplus equal to the aggregate stated value so fixed in respect of such shares; and the amount per share so transferred to stated capital shall be disclosed to the shareholders receiving such dividend concurrently with the payment thereof.

(e) No dividend payable in shares of any class shall be paid to the holders of shares of any other class unless the articles of incorporation so provide or such payment is authorized by the affirmative vote or the written consent of the holders of at least a majority of the outstanding shares of the class in which the payment is to be made.

A split-up or division of the issued shares of any class into a greater number of shares of the same class without increasing the stated capital of the corporation shall not be construed to be a share dividend within the meaning of this section.

Distributions from capital surplus.

Section 41. **Distributions from capital surplus.** The board of directors of a corporation may, from time to time, distribute to its shareholders out of capital surplus of the corporation a portion of its assets, in cash or property, subject to the following provisions:

(a) No such distribution shall be made at a time when the corporation is insolvent or when such distribution would render the corporation insolvent.

(b) No such distribution shall be made unless the articles of incorporation so provide or such distribution is authorized by the affirmative vote of the holders of a majority of the outstanding shares of each class whether

HeinOnline -- 1967 vol. II 954 1967

or not entitled to vote thereon by the provisions of the articles of incorporation of the corporation.

(c) No such distribution shall be made to the holders of any class of shares unless all cumulative dividends accrued on all preferred or special classes of shares entitled to preferential dividends shall have been fully paid.

(d) No such distribution shall be made to the holders of any class of shares which would reduce the remaining net assets of the corporation below the aggregate preferential amount payable in event of voluntary liquidation to the holders of shares having preferential rights to the assets of the corporation in the event of liquidation.

(e) Each such distribution, when made, shall be identified as a distribution from capital surplus and the amount per share disclosed to the shareholders receiving the same concurrently with the distribution thereof.

The board of directors of a corporation may also, from time to time, distribute to the holders of its outstanding shares having a cumulative preferential right to receive dividends, in discharge of their cumulative dividend rights, dividends payable in cash out of the capital surplus of the corporation, if at the time the corporation has no earned surplus and is not insolvent and would not thereby be rendered insolvent. Each such distribution, when made, shall be identified as a payment of cumulative dividends out of capital surplus.

Liability of directors in certain cases.

Section 42. **Liability of directors in certain cases.** In addition to any other liabilities imposed by law upon directors of a corporation:

(a) Directors of a corporation, who vote for or assent to the declaration of any dividend or other distribution of the assets of a corporation to its shareholders contrary to the provisions of this act or contrary to any restrictions contained in the articles of incorporation, shall be jointly and severally liable to the corporation for the amount of such dividend which is paid or the value of such assets which are distributed in excess of the amount of such dividend or distribution which could have been paid or distributed without a violation of the provisions of this act or the restrictions in the articles of incorporation.

HeinOnline -- 1967 vol. II 955 1967

(b) Directors of a corporation who vote for or assent to the purchase of its own shares contrary to the provisions of this act shall be jointly and severally liable to the corporation for the amount of consideration paid for such shares which is in excess of the maximum amount which could have been paid therefor without a violation of the provisions of this act.

(c) The directors of a corporation who vote for or assent to any distribution of assets of a corporation to its shareholders during the liquidation of the corporation without the payment and discharge of, or making adequate provision for, all known debts, obligations, and liabilities of the corporation shall be jointly and severally liable to the corporation for the value of such assets which are distributed, to the extent that such debts, obligations and liabilities of the corporation are not thereafter paid and discharged.

(d) The directors of a corporation who vote for or assent to the making of a loan to an officer or director of the corporation, or the making of any loan secured by shares of the corporation, except as authorized by other provisions of this act, shall be jointly and severally liable to the corporation for the amount of such loan until the repayment thereof.

A director of a corporation who is present at a meeting of its board of directors at which action on any corporate matter is taken shall be presumed to have assented to the action taken unless his dissent shall be entered in the minutes of the meeting or unless he shall file his written dissent to such action with the person acting as the secretary of the meeting before the adjournment thereof or shall forward such dissent by registered mail to the secretary of the corporation immediately after the adjournment of the meeting. Such right to dissent shall not apply to a director who voted in favor of such action.

A director shall not be liable under subparagraphs (a), (b) or (c) of this section if he relied and acted in good faith upon financial statements of the corporation represented to him to be correct by the president or the officer of such corporation having charge of its books of account, or stated in a written report by an independent public or certified public accountant or firm of such accountants fairly to reflect the financial condition of such corpora-

HeinOnline -- 1967 vol. II 956 1967

tion, nor shall he be so liable if in good faith in determining the amount available for any such dividend or distribution he considered the assets to be of their book value.

Any director, against whom a claim shall be asserted under or pursuant to this section for the payment of a dividend or other distribution of assets of a corporation and who shall be held liable thereon, shall be entitled to contribution from the shareholders who accepted or received any such dividend or assets, knowing such dividend or distribution to have been made in violation of this act, in proportion to the amounts received by them respectively.

Any director against whom a claim shall be asserted under or pursuant to this section shall be entitled to contribution from the other directors who voted for or assented to the action upon which the claim is asserted.

Provisions relating to actions by shareholders.

Section 43. **Provisions relating to actions by shareholders.** No action shall be brought in this state by a shareholder in the right of a domestic or foreign corporation unless the plaintiff was a holder of record of shares or of voting trust certificates therefor at the time of the transaction of which he complains, or his shares or voting trust certificates thereafter devolved upon him by operation of law from a person who was a holder of record at such time.

In any action hereafter instituted in the right of any domestic or foreign corporation by the holder or holders of record of shares, of such corporation or of voting trust certificates therefor, the court having jurisdiction, upon final judgment and a finding that the action was brought without reasonable cause, may require the plaintiff or plaintiffs to pay to the parties named as defendant the reasonable expenses, including fees of attorneys, incurred by them in the defense of such action.

Officers.

Section 44. **Officers.** The officers of a corporation shall consist of a president, one or more vice-presidents as may be prescribed by the bylaws, a secretary, and a treasurer, each of whom shall be elected by the board of directors at such time and in such manner as may be prescribed by the bylaws. Such other officers and assistant officers and agents as may be deemed necessary may

HeinOnline -- 1967 vol. II 957 1967

be elected or appointed by the board of directors or chosen in such other manner as may be prescribed by the bylaws. Any two or more offices may be held by the same person, except the offices of president and secretary.

All officers and agents of the corporation, as between themselves and the corporation, shall have such authority and perform such duties in the management of the corporation as may be provided in the bylaws, or as may be determined by resolution of the board of directors not inconsistent with the bylaws.

Removal of officers.

Section 45. **Removal of officers.** Any officer or agent may be removed by the board of directors whenever in its judgment the best interests of the corporation will be served thereby, but such removal shall be without prejudice to the contract rights, if any, of the person so removed. Election or appointment of an officer or agent shall not of itself create contract rights.

Books and records.

Section 46. **Books and records.** Each corporation shall keep correct and complete books and records of account and shall keep minutes of the proceedings of its shareholders and board of directors; and shall keep at its registered office or principal place of business, or at the office of its transfer agent or registrar, a record of its shareholders, giving the names and addresses of all shareholders and the number and class of the shares held by each.

Any person who shall have been a shareholder of record for at least six (6) months immediately preceding his demand or who shall be the holder of record of at least five percent (5%) of all the outstanding shares of a corporation, upon written demand stating the purpose thereof, shall have the right to examine, in person, or by agent or attorney, at any reasonable time or times, for any proper purpose, its books and records of account, minutes and record of shareholders and to make extracts therefrom.

Any officer or agent who, or a corporation which, shall refuse to allow any such shareholder, or his agent or attorney, so to examine and make extracts from its books and records of account, minutes, and record of shareholders, for any proper purpose, shall be liable to such

HeinOnline -- 1967 vol. II 958 1967

shareholder for such damages or other remedy as may be afforded him by law and for court costs and attorneys' fees incurred. It shall be a defense to any action under this section that the person suing therefor has within two (2) years prior to the demand sold or offered for sale any list of shareholders of such corporation or any other corporation or has aided or abetted any person in procuring any list of shareholders for any such purpose, or has improperly used or intends to use any information secured or to be secured through the demanded inspection or any prior examination of the books and records of account, or minutes, or record of shareholders of such corporation or any other corporation, or was not acting and is not acting in good faith or for a proper purpose in making his demand.

Nothing herein contained shall impair the power of any court of competent jurisdiction, upon proof by a shareholder of proper purpose, irrespective of the period of time during which such shareholder shall have been a shareholder of record, and irrespective of the number of shares held by him, to compel the production for examination by such shareholder of the books and records of account, minutes, and record of shareholders of a corporation.

Upon the written request of any shareholder of a corporation, the corporation shall mail to such shareholder its most recent financial statements showing in reasonable detail its assets and liabilities and the results of its operations.

Incorporators.

Section 47. **Incorporators.** One or more persons of legal age, or a domestic or foreign corporation, may act as incorporator or incorporators of a corporation by signing, acknowledging and delivering in duplicate to the secretary of state articles of incorporation for such corporation.

Articles of incorporation.

Section 48. **Articles of incorporation.** The articles of incorporation shall set forth:

(a) The name of the corporation.

(b) The period of duration, which may be perpetual.

(c) The purpose or purposes for which the corporation is organized.

HeinOnline -- 1967 vol. II 959 1967

(d) The aggregate number of shares which the corporation shall have authority to issue; if such shares are to consist of one class only, the par value of each of such shares, or a statement that all of such shares are without par value; or, if such shares are to be divided into classes, the number of shares of each class, and a statement of the par value of the shares of each such class or that such shares are to be without par value.

(e) If the shares are to be divided into classes, the designation of each class and a statement of the preferences, limitations and relative rights in respect of the shares of each class.

(f) If the corporation is to issue the shares of any preferred or special class in series, then the designation of each series and a statement of the variations in the relative rights and preferences as between series in so far as the same are to be fixed in the articles of incorporation, and a statement of any authority to be vested in the board of directors to establish series and fix and determine the variations in the relative rights and preferences as between series.

(g) Any provision granting to shareholders the preemptive right to acquire additional or treasury shares of the corporation.

(h) Any provision, not inconsistent with law, which the incorporators elect to set forth in the articles of incorporation for the regulation of the internal affairs of the corporation, including any provision restricting the transfer of shares and any provision which under this act is required or permitted to be set forth in the bylaws.

(i) The address, including street and number, if any, of its initial registered office, and the name of its initial registered agent at such address.

(j) The number of directors constituting the initial board of directors and the names and addresses of the persons who are to serve as directors until the first annual meeting of shareholders or until their successors be elected and qualify.

(k) The name and address of each incorporator.

It shall not be necessary to set forth in the articles of incorporation any of the corporate powers enumerated in this act.

HeinOnline -- 1967 vol. II 960 1967

Filing of articles of incorporation.

Section 49. **Filing of articles of incorporation.** Duplicate originals of the articles of incorporation shall be delivered to the secretary of state. If the secretary of state finds that the articles of incorporation conform to law, he shall, when all fees have been paid as in this act prescribed:

(1) Endorse on each of such duplicate originals the word "filed," and the month, day and year of the filing thereof.

(2) File one of such duplicate originals in his office.

(3) Issue a certificate of incorporation to which he shall affix the other duplicate original.

The certificate of incorporation, together with the duplicate original of the articles of incorporation affixed thereto by the secretary of state, shall be returned to the incorporators or their representative.

Effect of issuance of incorporation.

Section 50. **Effect of issuance of certificate of incorporation.** Upon the issuance of the certificate of incorporation, the corporate existence shall begin and such certificate of incorporation shall be conclusive evidence that all conditions precedent required to be performed by the incorporators have been complied with and that the corporation has been incorporated under this act, except as against this state in a proceeding to cancel or revoke the certificate of incorporation or for involuntary dissolution of the corporation.

Organization meeting of directors.

Section 51. **Organization meeting of directors.** After the issuance of the certificate of incorporation an organization meeting of the board of directors named in the articles of incorporation shall be held, either within or without this state, at the call of a majority of the incorporators, for the purpose of adopting bylaws, electing officers and the transaction of such other business as may come before the meeting. The incorporators calling the meeting shall give at least three (3) days' notice thereof by mail to each director so named, which notice shall state the time and place of the meeting.

Right to amend articles of incorporation.

Section 52. **Right to amend articles of incorporation.** A corporation may amend its articles of incorporation, from time to time, in any and as many respects as may be desired, so long as its articles of incorporation as amended contain only such provisions as might be law-

HeinOnline -- 1967 vol. II 961 1967

fully contained in original articles of incorporation at the time of making such amendment, and, if a change in shares or the rights of shareholders, or an exchange, reclassification or cancellation of shares or rights of shareholders is to be made, such provisions as may be necessary to effect such change, exchange, reclassification or cancellation.

In particular, and without limitation upon such general power of amendment, a corporation may amend its articles of incorporation, from time to time, so as:

(a) To change its corporate name.

(b) To change its period of duration.

(c) To change, enlarge or diminish its corporate purposes.

(d) To increase or decrease the aggregate number of shares, or shares of any class, which the corporation has authority to issue.

(e) To increase or decrease the par value of the authorized shares of any class having a par value, whether issued or unissued.

(f) To exchange, classify, reclassify or cancel all or any part of its shares, whether issued or unissued.

(g) To change the designation of all or any part of its shares, whether issued or unissued, and to change the preferences, limitations, and the relative rights in respect of all or any part of its shares, whether issued or unissued.

(h) To change shares having a par value, whether issued or unissued, into the same or a different number of shares without par value, and to change shares without par value, whether issued or unissued, into the same or a different number of shares having a par value.

(i) To change the shares of any class, whether issued or unissued, and whether with or without par value, into a different number of shares of the same class or into the same or a different number of shares, either with or without par value, of other classes.

(j) To create new classes of shares having rights and preferences either prior and superior or subordinate and inferior to the shares of any class then authorized, whether issued or unissued.

HeinOnline -- 1967 vol. II 962 1967

(k) To cancel or otherwise affect the right of the holders of the shares of any class to receive dividends which have accrued but have not been declared.

(l) To divide any preferred or special class of shares, whether issued or unissued, into series and fix and determine the designations of such series and the variations in the relative rights and preferences as between the shares of such series.

(m) To authorize the board of directors to establish, out of authorized but unissued shares, series of any preferred or special class of shares and fix and determine the relative rights and preferences of the shares of any series so established.

(n) To authorize the board of directors to fix and determine the relative rights and preferences of the authorized but unissued shares of series theretofore established in respect of which either the relative rights and preferences have not been fixed and determined or the relative rights and preferences theretofore fixed and determined are to be changed.

(o) To revoke, diminish, or enlarge the authority of the board of directors to establish series out of authorized but unissued shares of any preferred or special class and fix and determine the relative rights and preferences of the shares of any series so established.

(p) To grant to shareholders of any class the preemptive right to acquire additional or treasury shares of the corporation, whether then or thereafter authorized.

Procedure to amend articles of incorporation.

Section 53. **Procedure to amend articles of incorporation.** Amendments to the articles of incorporation shall be made in the following manner:

(a) The board of directors shall adopt a resolution setting forth the proposed amendment and directing that it be submitted to a vote at a meeting of shareholders, which may be either an annual or a special meeting.

(b) Written notice setting forth the proposed amendment or a summary of the changes to be effected thereby shall be given to each shareholder of record entitled to vote thereon within the time and in the manner provided in this act for the giving of notice of meetings of shareholders. If the meeting be an annual meeting, the pro-

HeinOnline -- 1967 vol. II 963 1967

posed amendment or such summary may be included in the notice of such annual meeting. If the amendment shall involve an increase of authorized shares, at least thirty (30) days' notice of the meeting for acting upon such amendment shall be given to shareholders entitled to vote at such meeting.

(c) At such meeting a vote of the shareholders entitled to vote thereon shall be taken on the proposed amendment. The proposed amendment shall be adopted upon receiving the affirmative vote of the holders of a majority of the shares entitled to vote thereon, unless any class of shares is entitled to vote thereon as a class, in which event the proposed amendment shall be adopted upon receiving the affirmative vote of the holders of a majority of the shares of each class of shares entitled to vote thereon as a class and of the total shares entitled to vote thereon.

Any number of amendments may be submitted to the shareholders and voted upon by them at one meeting.

Class voting on amendments.

Section 54. **Class voting on amendments.** The holders of the outstanding shares of a class shall be entitled to vote as a class upon a proposed amendment, whether or not entitled to vote thereon by the provisions of the articles of incorporation, if the amendment would:

(a) Increase or decrease the aggregate number of authorized shares of such class.

(b) Increase or decrease the par value of the shares of such class.

(c) Effect an exchange, reclassification or cancellation of all or part of the shares of such class.

(d) Effect an exchange, or create a right of exchange, of all or any part of the shares of another class into the shares of such class.

(e) Change the designations, preferences, limitations or relative rights of the shares of such class.

(f) Change the shares of such class, whether with or without par value, into the same or a different number of shares, either with or without par value, of the same class or another class or classes.

HeinOnline -- 1967 vol. II 964 1967

(g) Create a new class of shares having rights and preferences prior and superior to the shares of such class, or increase the rights and preferences of any class having rights and preferences prior or superior to the shares of such class.

(h) In the case of a preferred or special class of shares, divide the shares of such class into series and fix and determine the designation of such series and the variations in the relative rights and preferences between the shares of such series, or authorize the board of directors to do so.

(i) Limit or deny existing pre-emptive rights of the shares of such class.

(j) Cancel or otherwise affect dividends on the shares of such class which have accrued but have not been declared.

Articles of amendment.

Section 55. **Articles of amendment.** The articles of amendment shall be executed in duplicate by the corporation by its president or a vice-president and by its secretary or an assistant secretary, and verified by one of the officers signing such articles, and shall set forth:

(a) The name of the corporation.

(b) The amendment so adopted.

(c) The date of the adoption of the amendment by the shareholders.

(d) The number of shares outstanding, and the number of shares entitled to vote thereon, and if the shares of any class are entitled to vote thereon as a class, the designation and number of outstanding shares entitled to vote thereon of each such class.

(e) The number of shares voted for and against such amendments, respectively, and, if the shares of any class are entitled to vote thereon as a class, the number of shares of each such class voted for and against such amendment, respectively.

(f) If such amendment provides for an exchange, reclassification or cancellation of issued shares, and if the manner in which the same shall be effected is not set forth in the amendment, then a statement of the manner in which the same shall be effected.

HeinOnline -- 1967 vol. II 965 1967

(g) If such amendment effects a change in the amount of stated capital, then a statement of the manner in which the same is effected and a statement, expressed in dollars, of the amount of stated capital as changed by such amendment.

Filing of articles of amendment.

Section 56. **Filing of articles of amendment.** Duplicate originals of the articles of amendment shall be delivered to the secretary of state. If the secretary of state finds that the articles of amendment conform to law, he shall, when all fees have been paid as in this act prescribed:

(1) Endorse on each of such duplicate originals the word "filed," and the month, day and year of the filing thereof.

(2) File one of such duplicate originals in his office.

(3) Issue a certificate of amendment to which he shall affix the other duplicate original.

The certificate of amendment, together with the duplicate original of the articles of amendment affixed thereto by the secretary of state, shall be returned to the corporation or its representative.

Effect of certificate of amendment.

Section 57. **Effect of certificate of amendment.** Upon the issuance of the certificate of amendment by the secretary of state, the amendment shall become effective and the articles of incorporation shall be deemed to be amended accordingly.

No amendment shall affect any existing cause of action in favor of or against such corporation, or any pending suit to which such corporation shall be a party, or the existing rights of persons other than shareholders; and, in the event the corporate name shall be changed by amendment, no suit brought by or against such corporation under its former name shall abate for that reason.

Restated articles of incorporation.

Section 58. **Restated articles of incorporation.** (1) A corporation may by action taken in the same manner as required for amendment of articles of incorporation adopt restated articles of incorporation. The restated articles of incorporation may contain any changes in the articles of incorporation that could be made by amendment regularly adopted. Adoption of restated articles of incorporation containing any such changes shall have the effect of

HeinOnline -- 1967 vol. II 966 1967

amending the existing articles of incorporation to conform to the restated articles of incorporation, without further action of the board of directors or shareholders. Restated articles of incorporation shall contain a statement that they supersede the theretofore existing articles of incorporation and amendments thereto. Restated articles of incorporation shall contain all the statements required by this act to be included in original articles of incorporation except that:

(a) The restated articles of incorporation shall set forth the amount of its stated capital at the time of the adoption of the restated articles of incorporation; and

(b) In lieu of setting forth the address of the initial registered office and the name of the initial registered agent at such address, there shall be set forth the address, including street and number, if any, of the registered office and the name of the registered agent at such address at the time of the adoption of the restated articles of incorporation; and

(c) No statement need be made with respect to the names and addresses of directors constituting the initial board of directors or the names and addresses of the incorporators.

(2) Restated articles of incorporation when executed and filed in the manner prescribed in this act for articles of amendment shall supersede the theretofore existing articles of incorporation and amendments thereto. The secretary of state shall upon request certify a copy of the articles of incorporation, or the articles of incorporation as restated, or any amendments to either thereof.

(3) The restated articles of incorporation, when filed, shall be accompanied by a statement, executed in duplicate by the corporation by its president or a vice-president and by its secretary or an assistant secretary and verified by one of the officers signing such statement, setting forth the following:

(a) The name of the corporation.

(b) The date of the adoption of the restated articles of incorporation by the shareholders.

(c) The number of shares outstanding, and the number of shares entitled to vote thereon, and, if the

HeinOnline -- 1967 vol. II 967 1967

shares of any class are entitled to vote thereon as a class, the designation and number of outstanding shares entitled to vote thereon of each such class.

(d) The number of shares voted for and against the restated articles of incorporation, respectively, and, if the shares of any class are entitled to vote thereon as a class, the number of shares of each such class voted for and against the restated articles of incorporation, respectively.

(e) If the restated articles of incorporation provide for an exchange, reclassification or cancellation of issued shares, and, if the manner in which the same shall be effected is not set forth in the restated articles of incorporation, then a statement of the manner in which the same shall be effected.

(f) If the restated articles of incorporation effect a change in the amount of stated capital, then a statement of the manner in which the same is effected and a statement, expressed in dollars, of the amount of stated capital as changed by the restated articles of incorporation.

Amendment of articles of incorporation in reorganization proceedings.

Section 59. **Amendment of articles of incorporation in reorganization proceedings.** Whenever a plan of reorganization of a corporation has been confirmed by decree or order of a court of competent jurisdiction in proceedings for the reorganization of such corporation, pursuant to the provisions of any applicable statute of the United States relating to reorganizations of corporations, the articles of incorporation of the corporation may be amended, in the manner provided in this section, in as many respects as may be necessary to carry out the plan and put it into effect, so long as the articles of incorporation as amended contain only such provisions as might be lawfully contained in original articles of incorporation at the time of making such amendment.

In particular and without limitation upon such general power of amendment, the articles of incorporation may be amended for such purpose so as to:

(a) Change the corporate name, period of duration or corporate purposes of the corporation;

(b) Repeal, alter or amend the bylaws of the corporation;

HeinOnline -- 1967 vol. II 968 1967

(c) Change the aggregate number of shares, or shares of any class, which the corporation has authority to issue;

(d) Change the preferences, limitations and relative rights in respect of all or any part of the shares of the corporation, and classify, reclassify or cancel all or any part thereof, whether issued or unissued;

(e) Authorize the issuance of bonds, debentures or other obligations of the corporation, whether or not convertible into shares of any class or bearing warrants or other evidences of optional rights to purchase or subscribe for shares of any class, and fix the terms and conditions thereof; and

(f) Constitute or reconstitute and classify or reclassify the board of directors of the corporation, and appoint directors and officers in place of or in addition to all or any of the directors or officers then in office.

Amendments to the articles of incorporation pursuant to this section shall be made in the following manner:

(a) Articles of amendment approved by decree or order of such court shall be executed and verified in duplicate by such person or persons as the court shall designate or appoint for the purpose, and shall set forth the name of the corporation, the amendments of the articles of incorporation approved by the court, the date of the decree or order approving the articles of amendment, the title of the proceedings in which the decree or order was entered, and a statement that such decree or order was entered by a court having jurisdiction of the proceedings for the reorganization of the corporation pursuant to the provisions of an applicable statute of the United States.

(b) Duplicate originals of the articles of amendment shall be delivered to the secretary of state. If the secretary of state finds that the articles of amendment conform to law, he shall, when all fees have been paid as in this act prescribed:

(1) Endorse on each of such duplicate originals the word "filed," and the month, day and year of the filing thereof.

(2) File one of such duplicate originals in his office.

HeinOnline -- 1967 vol. II 969 1967

(3) Issue a certificate of amendment to which he shall affix the other duplicate original.

The certificate of amendment, together with the duplicate original of the articles of amendment affixed thereto by the secretary of state, shall be returned to the corporation or its representative.

Upon the issuance of the certificate of amendment by the secretary of state, the amendment shall become effective and the articles of incorporation shall be deemed to be amended accordingly, without any action thereon by the directors or shareholders of the corporation and with the same effect as if the amendments had been adopted by unanimous action of the directors and shareholders of the corporation.

Restriction on redemption or purchase of redeemable shares.

Section 60. **Restriction on redemption or purchase of redeemable shares.** No redemption or purchase of redeemable shares shall be made by a corporation when it is insolvent or when such redemption or purchase would render it insolvent, or which would reduce the net assets below the aggregate amount payable to the holders of shares having prior or equal rights to the assets of the corporation upon involuntary dissolution.

Cancellation of redeemable shares by redemption or purchase.

Section 61. **Cancellation of redeemable shares by redemption or purchase.** When redeemable shares of a corporation are redeemed or purchased by the corporation, the redemption or purchase shall effect a cancellation of such shares, and a statement of cancellation shall be filed as provided in this section. Thereupon such shares shall be restored to the status of authorized but unissued shares, unless the articles of incorporation provide that such shares when redeemed or purchased shall not be reissued, in which case the filing of the statement of cancellation shall constitute an amendment to the articles of incorporation and shall reduce the number of shares of the class so cancelled which the corporation is authorized to issue by the number of shares so cancelled.

The statement of cancellation shall be executed in duplicate by the corporation by its president or a vice-president and by its secretary or an assistant secretary, and verified by one of the officers signing such statement and shall set forth:

(a) The name of the corporation.

HeinOnline -- 1967 vol. II 970 1967

(b) The number of redeemable shares cancelled through redemption or purchase, itemized by classes and series.

(c) The aggregate number of issued shares, itemized by classes and series, after giving effect to such cancellation.

(d) The amount, expressed in dollars of the stated capital of the corporation after giving effect of such cancellation.

(e) If the articles of incorporation provide that the cancelled shares shall not be reissued, then the number of shares which the corporation has authority to issue, itemized by classes and series, after giving effect to such cancellation.

Duplicate originals of such statement shall be delivered to the secretary of state. If the secretary of state finds that such statement conforms to law, he shall, when all fees have been paid as in this act prescribed:

(1) Endorse on each of such duplicate originals the word "filed," and the month, day and year of the filing thereof.

(2) File one of such duplicate originals in his office.

(3) Return the other duplicate original to the corporation or its representative.

Upon the filing of such statement of cancellation, the stated capital of the corporation shall be deemed to be reduced by that part of the stated capital which was, at the time of such cancellation, represented by the shares so cancelled.

Nothing contained in this section shall be construed to forbid a cancellation of shares or a reduction of stated capital in any other manner permitted by this act.

Cancellation of other reacquired shares.

Section 62. **Cancellation of other reacquired shares.** A corporation may at any time, by resolution of its board of directors, cancel all or any part of the shares of the corporation of any class reacquired by it, other than redeemable shares redeemed or purchased, and in such event a statement of cancellation shall be filed as provided in this section.

HeinOnline -- 1967 vol. II 971 1967

The statement of cancellation shall be executed in duplicate by the corporation by its president or a vice-president and by its secretary or an assistant secretary, and verified by one of the officers signing such statement, and shall set forth:

(a) The name of the corporation.

(b) The number of reacquired shares cancelled by resolution duly adopted by the board of directors, itemized by classes and series, and the date of its adoption.

(c) The aggregate number of issued shares, itemized by classes and series, after giving effect to such cancellation.

(d) The amount, expressed in dollars, of the stated capital of the corporation after giving effect to such cancellation.

Duplicate originals of such statement shall be delivered to the secretary of state. If the secretary of state finds that such statement conforms to law, he shall, when all fees have been paid as in this act prescribed:

(1) Endorse on each of such duplicate originals the word "filed," and the month, day and year of the filing thereof.

(2) File one of such duplicate originals in his office.

(3) Return the other duplicate original to the corporation or its representative.

Upon the filing of such statement of cancellation, the stated capital of the corporation shall be deemed to be reduced by that part of the stated capital which was, at the time of such cancellation, represented by the shares so cancelled, and the shares so cancelled shall be restored to the status of authorized but unissued shares.

Nothing contained in this section shall be construed to forbid a cancellation of shares or a reduction of stated capital in any other manner permitted by this act.

Reduction of stated capital in certain cases.

Section 63. **Reduction of stated capital in certain cases.** A reduction of the stated capital of a corporation, where such reduction is not accompanied by any action requiring an amendment of the articles of incorporation and not accompanied by a cancellation of shares, may be made in the following manner:

HeinOnline -- 1967 vol. II 972 1967

A. The board of directors shall adopt a resolution setting forth the amount of the proposed reduction and the manner in which the reduction shall be effected, and directing that the question of such reduction be submitted to a vote at a meeting of shareholders, which may be either an annual or a special meeting.

B. Written notice, stating that the purpose or one of the purposes of such meeting is to consider the question of reducing the stated capital of the corporation in the amount and manner proposed by the board of directors, shall be given to each shareholder of record entitled to vote thereon within the time and in the manner provided in this act for the giving of notice of meetings of shareholders.

C. At such meeting a vote of the shareholders entitled to vote thereon shall be taken on the question of approving the proposed reduction of stated capital, which shall require for its adoption the affirmative vote of the holders of a majority of the shares entitled to vote thereon.

When a reduction of the stated capital of a corporation has been approved as provided in this section, a statement shall be executed in duplicate by the corporation by its president or a vice-president and by its secretary or an assistant secretary, and verified by one of the officers signing such statement, and shall set forth:

(a) The name of the corporation.

(b) A copy of the resolution of the shareholders approving such reduction, and the date of its adoption.

(c) The number of shares outstanding, and the number of shares entitled to vote thereon.

(d) The number of shares voted for and against such reduction, respectively.

(e) A statement of the manner in which such reduction is effected, and a statement, expressed in dollars, of the amount of stated capital of the corporation after giving effect to such reduction.

Duplicate originals of such statement shall be delivered to the secretary of state. If the secretary of state finds that such statement conforms to law, he shall, when all fees have been paid as in this act prescribed:

HeinOnline -- 1967 vol. II 973 1967

(1) Endorse on each of such duplicate originals the word "filed," and the month, day and year of the filing thereof.

(2) File one of such duplicate originals in his office.

(3) Return the other duplicate original to the corporation or its representative.

Upon the filing of such statement, the stated capital of the corporation shall be reduced as therein set forth.

No reduction of stated capital shall be made under the provisions of this section which would reduce the amount of the aggregate stated capital of the corporation to an amount equal to or less than the aggregate preferential amounts payable upon all issued shares having a preferential right in the assets of the corporation in the event of involuntary liquidation, plus the aggregate par value of all issued shares having a par value but no preferential right in the assets of the corporation in the event of involuntary liquidation.

Special provisions relating to surplus and reserves.

Section 64. **Special provisions relating to surplus and reserves.** The surplus, if any, created by or arising out of a reduction of the stated capital of a corporation shall be capital surplus.

The capital surplus of a corporation may be increased from time to time by resolution of the board of directors directing that all or a part of the earned surplus of the corporation be transferred to capital surplus.

A corporation may, by resolution of its board of directors, apply any part or all of its capital surplus to the reduction or elimination of any deficit arising from losses, however incurred, but only after first eliminating the earned surplus, if any, of the corporation by applying such losses against earned surplus and only to the extent that such losses exceed the earned surplus, if any. Each such application of capital surplus shall, to the extent thereof, effect a reduction of capital surplus.

A corporation may, by resolution of its board of directors, create a reserve or reserves out of its earned surplus for any proper purpose or purposes, and may abolish any such reserve in the same manner. Earned surplus of the corporation to the extent so reserved shall not be

HeinOnline -- 1967 vol. II 974 1967

available for the payment of dividends or other distributions by the corporation except as expressly permitted by this act.

Procedure for merger.

Section 65. **Procedure for merger.** Any two (2) or more domestic corporations may merge into one of such corporations pursuant to a plan of merger approved in the manner provided in this act.

The board of directors of each corporation shall, by resolution adopted by each such board, approve a plan of merger setting forth:

(a) The names of the corporations proposing to merge, and the name of the corporation into which they propose to merge, which is hereinafter designated as the surviving corporation.

(b) The terms and conditions of the proposed merger.

(c) The manner and basis of converting the shares of each merging corporation into shares or other securities or obligations of the surviving corporation.

(d) A statement of any changes in the articles of incorporation of the surviving corporation to be effected by such merger.

(e) Such other provisions with respect to the proposed merger as are deemed necessary or desirable.

Procedure for consolidation.

Section 66. **Procedure for consolidation.** Any two (2) or more domestic corporations may consolidate into a new corporation pursuant to a plan of consolidation approved in the manner provided in this act.

The board of directors of each corporation shall, by a resolution adopted by each such board, approve a plan of consolidation setting forth:

(a) The names of the corporations proposing to consolidate, and the name of the new corporation into which they propose to consolidate, which is hereinafter designated as the new corporation.

(b) The terms and conditions of the proposed consolidation.

(c) The manner and basis of converting the shares of each corporation into shares or other securities or obligations of the new corporation.

HeinOnline -- 1967 vol. II 975 1967

(d) With respect to the new corporation, all of the statements required to be set forth in articles of incorporation for corporations organized under this act.

(e) Such other provisions with respect to the proposed consolidation as are deemed necessary or desirable.

Approval of shareholders.

Section 67. **Approval of shareholders.** The board of directors of each corporation, upon approving such plan of merger or plan of consolidation, shall, by resolution direct that the plan be submitted to a vote at a meeting of shareholders, which may be either an annual or a special meeting.

Written notice shall be given to each shareholder of record, whether or not entitled to vote at such meeting, not less than thirty (30) days before such meeting, in the manner provided in this act for the giving of notice of meetings of shareholders, and, whether the meeting be an annual or a special meeting, shall state that the purpose or one of the purposes is to consider the proposed plan of merger or consolidation. A copy or a summary of the plan of merger or plan of consolidation, as the case may be, shall be included in or enclosed with such notice.

At each such meeting, a vote of the shareholders shall be taken on the proposed plan of merger or consolidation. The plan of merger or consolidation shall be approved upon receiving the affirmative vote of the holders of two-thirds (2/3) of the shares entitled to vote thereon of each such corporation, unless any class of shares of any such corporation is entitled to vote thereon as a class, in which event, as to such corporation, the plan of merger or consolidation shall be approved upon receiving the affirmative vote of the holders of two-thirds (2/3) of the shares of each class of shares entitled to vote thereon as a class and of the total shares entitled to vote thereon. Any class of shares of any such corporation shall be entitled to vote as a class if the plan of merger or consolidation, as the case may be, contains any provision which, if contained in a proposed amendment to articles of incorporation, would entitle such class of shares to vote as a class.

After such approval by a vote of the shareholders of each corporation, and at any time prior to the filing of the articles of merger or consolidation, the merger or consolidation may be abandoned pursuant to provisions

HeinOnline -- 1967 vol. II 976 1967

therefor, if any, set forth in the plan of merger or consolidation.

Articles of merger or consolidation; merger of subsidiary corporation.

Section 68. **Articles of merger or consolidation; merger of subsidiary corporation.** Upon such approval, articles of merger or articles of consolidation shall be executed in duplicate by each corporation by its president or a vice-president and by its secretary or an assistant secretary, and verified by one of the officers of each corporation signing such articles and shall set forth:

(a) The plan of merger or the plan of consolidation.

(b) As to each corporation, the number of shares outstanding, and, if the shares of any class are entitled to vote as a class, the designation and number of outstanding shares of each such class.

(c) As to each corporation, the number of shares voted for and against such plan, respectively, and, if the shares of any class are entitled to vote as a class, the number of shares of each such class voted for and against such plan, respectively.

Duplicate originals of the articles of merger or articles of consolidation shall be delivered to the secretary of state. If the secretary of state finds that such articles conform to law, he shall, when all fees have been paid as in this act prescribed:

(1) Endorse on each of such duplicate originals the word "filed," and the month, day and year of the filing thereof.

(2) File one of such duplicate originals in his office.

(3) Issue a certificate of merger or a certificate of consolidation to which he shall affix the other duplicate original.

The certificate of merger or certificate of consolidation, together with the duplicate original of the articles of merger or articles of consolidation affixed thereto by the secretary of state, shall be returned to the surviving or new corporation, as the case may be, or its representative.

Any corporation owning at least ninety-five percent (95%) of the outstanding shares of each class of another corporation may merge such other corporation into itself without approval by a vote of the shareholders of either

HeinOnline -- 1967 vol. II 977 1967

corporation. Its board of directors shall, by resolution, approve a plan of merger setting forth:

(a) The name of the subsidiary corporation and the name of the corporation owning at least ninety-five percent (95%) of its shares, which is hereinafter designated as the surviving corporation.

(b) The manner and basis of converting the shares of the subsidiary corporation into shares or other securities or obligations of the surviving corporation or the cash or other consideration to be paid or delivered upon surrender of each share of the subsidiary corporation.

A copy of such plan of merger shall be mailed to each shareholder of record of the subsidiary corporation.

Articles of merger shall be executed in duplicate by the surviving corporation by its president or a vice-president and by its secretary or an assistant secretary, and verified by one of its officers signing such articles, and shall set forth:

(a) The plan of merger.

(b) The number of outstanding shares of each class of the subsidiary corporation and the number of such shares of each class owned by the surviving corporation; and

(c) The date of the mailing to shareholders of the subsidiary corporation of a copy of the plan of merger.

On and after the thirtieth day after the mailing of a copy of the plan of merger to shareholders of the subsidiary corporation or upon the waiver thereof by the holders of all outstanding shares duplicate originals of the articles of merger shall be delivered to the secretary of state. If the secretary of state finds that such articles conform to law, he shall, when all fees have been paid as in this act prescribed:

(1) Endorse on each of such duplicate originals the word "filed," and the month, day and year of the filing thereof;

(2) File one (1) of such duplicate originals in his office; and

(3) Issue a certificate of merger to which he shall affix the other duplicate original.

HeinOnline -- 1967 vol. II 978 1967

The certificate of merger, together with the duplicate original of the articles of merger affixed thereto by the secretary of state, shall be returned to the surviving corporation or its representative.

Effect of merger or consolidation.

Section 69. **Effect of merger or consolidation.** Upon the issuance of the certificate of merger or the certificate of consolidation by the secretary of state, the merger or consolidation shall be effected.

When such merger or consolidation has been effected:

(a) The several corporations parties to the plan of merger or consolidation shall be a single corporation, which, in the case of a merger, shall be that corporation designated in the plan of merger as the surviving corporation, and, in the case of a consolidation, shall be the new corporation provided for in the plan of consolidation.

(b) The separate existence of all corporations parties to the plan of merger or consolidation, except the surviving or new corporation, shall cease.

(c) Such surviving or new corporation shall have all the rights, privileges, immunities and powers and shall be subject to all the duties and liabilities of a corporation organized under this act.

(d) Such surviving or new corporation shall thereupon and thereafter possess all the rights, privileges, immunities, and franchises, as well of a public as of a private nature, of each of the merging or consolidating corporations; and all property, real, personal and mixed, and all debts due on whatever account, including subscriptions to shares, and all other choses in action, and all and every other interest of or belonging to or due to each of the cooperations so merged or consolidated, shall be taken and deemed to be transferred to and vested in such single corporation without further act or deed; and the title to any real estate, or any interest therein, vested in any of such corporations shall not revert or be in any way impaired by reason of such merger or consolidation.

(e) Such surviving or new corporation shall thenceforth be responsible and liable for all the liabilities and obligations of each of the corporations so merged or consolidated; and any claim existing or action or proceed-

HeinOnline -- 1967 vol. II 979 1967

ing pending by or against any of such corporations may be prosecuted as if such merger or consolidation had not taken place, or such surviving or new corporation may be substituted in its place. Neither the rights of creditors nor any liens upon the property of any such corporation shall be impaired by such merger or consolidation.

(f) In the case of a merger, the articles of incorporation of the surviving corporation shall be deemed to be amended to the extent, if any, that changes in its articles of incorporation are stated in the plan of merger; and, in the case of a consolidation, the statement set forth in the articles of consolidation and which are required or permitted to be set forth in the articles of incorporation of corporations organized under this act shall be deemed to be the original articles of incorporation of the new corporation.

Merger or consolidation of domestic and foreign corporations.

Section 70. **Merger or consolidation of domestic and foreign corporations.** One (1) or more foreign corporations and one (1) or more domestic corporations may be merged or consolidated in the following manner, if such merger or consolidation is permitted by the laws of the state under which each such foreign corporation is organized:

(a) Each domestic corporation shall comply with the provisions of this act with respect to the merger or consolidation, as the case may be, of domestic corporations and each foreign corporation shall comply with the applicable provisions of the laws of the state under which it is organized.

(b) If the surviving or new corporation, as the case may be, is to be governed by the laws of any state other than this state, it shall comply with the provisions of this act with respect to foreign corporations if it is to transact business in this state, and in every case it shall file with the secretary of state of this state:

(1) An agreement that it may be served with process in this state in any proceeding for the enforcement of any obligation of any domestic corporation which is a party to such merger or consolidation and in any proceeding for the enforcement of the rights of a dissenting shareholder of any such domestic corporation against the surviving or new corporation;

HeinOnline -- 1967 vol. II 980 1967

(2) An irrevocable appointment of the secretary of state of this state as its agent to accept service of process in any such proceeding; and

(3) An agreement that it will promptly pay to the dissenting shareholders of any such domestic corporation the amount, if any, to which they shall be entitled under the provisions of this act with respect to the rights of dissenting shareholders.

The effect of such merger or consolidation shall be the same as in the case of the merger or consolidation of domestic corporations, if the surviving or new corporation is to be governed by the laws of this state. If the surviving or new corporation is to be governed by the laws of any state other than this state, the effect of such merger or consolidation shall be the same as in the case of the merger or consolidation of domestic corporations except in so far as the laws of such other state provide otherwise.

At any time prior to the filing of the articles of merger or consolidation, the merger or consolidation may be abandoned pursuant to provisions therefor, if any, set forth in the plan of merger or consolidation.

Sale of assets in regular course of business and mortgage or pledge of assets.

Section 71. **Sale of assets in regular course of business and mortgage or pledge of assets.** The sale, lease, exchange, or other disposition of all, or substantially all, the property and assets of a corporation in the usual and regular course of its business and the mortgage or pledge of any or all property and assets of a corporation whether or not in the usual and regular course of business may be made upon such terms and conditions and for such consideration, which may consist in whole or in part of money or property, real or personal, including shares of any other corporation, domestic or foreign, as shall be authorized by its board of directors; and in any such case no authorization or consent of the shareholders shall be required.

Sale of assets other than in regular course of business.

Section 72. **Sale of assets other than in regular course of business.** A sale, lease, exchange, or other disposition of all, or substantially all, the property and assets, with or without the good will, of a corporation, if not in the usual and regular course of its business, may be made upon such terms and conditions and for such consideration, which may consist in whole or in part of money or

HeinOnline -- 1967 vol. II 981 1967

property, real or personal, including shares of any other corporation, domestic or foreign, as may be authorized in the following manner:

(a) The board of directors shall adopt a resolution recommending such sale, lease, exchange, or other disposition and directing the submission thereof to a vote at a meeting of shareholders, which may be either an annual or a special meeting.

(b) Written notice shall be given to each shareholder of record, whether or not entitled to vote at such meeting, not less than thirty (30) days before such meeting, in the manner provided in this act for the giving of notice of meetings of shareholders, and, whether the meeting be an annual or a special meeting, shall state that the purpose, or one of the purposes is to consider the proposed sale, lease, exchange, or other disposition.

(c) At such meeting the shareholders may authorize such sale, lease, exchange, or other disposition and may fix, or may authorize the board of directors to fix, any or all of the terms and conditions thereof and the consideration to be received by the corporation therefor. Such authorization shall require the affirmative vote of the holders of two-thirds (2/3) of the shares of the corporation entitled to vote thereon, unless any class of shares is entitled to vote thereon as a class, in which event such authorization shall require the affirmative vote of the holders of two-thirds (2/3) of the shares of each class of shares entitled to vote as a class thereon and of the total shares entitled to vote thereon.

(d) After such authorization by a vote of shareholders, the board of directors nevertheless, in its discretion, may abandon such sale, lease, exchange, or other disposition of assets, subject to the rights of third parties under any contracts relating thereto, without further action or approval by shareholders.

Right of shareholders to dissent.

Section 73. **Right of shareholders to dissent.** Any shareholder of a corporation shall have the right to dissent from any of the following corporate actions:

(a) Any plan of merger or consolidation to which the corporation is a party; or

(b) Any sale or exchange of all or substantially all of the property and assets of the corporation not made

HeinOnline -- 1967 vol. II 982 1967

in the usual and regular course of its business, including a sale in dissolution, but not including a sale pursuant to an order of a court having jurisdiction in the premises or a sale for cash on terms requiring that all or substantially all of the net proceeds of sale be distributed to the shareholders in accordance with their respective interests within one (1) year after the date of sale.

A shareholder may dissent as to less than all of the shares registered in his name. In that event, his rights shall be determined as if the shares as to which he has dissented and his other shares were registered in the names of different shareholders.

The provisions of this section shall not apply to the shareholders of the surviving corporation in a merger if such corporation is on the date of the filing of the articles of merger the owner of all the outstanding shares of the other corporations, domestic or foreign, which are parties to the merger, or if a vote of the shareholders of such corporation is not necessary to authorize such merger.

Rights of dissenting shareholders.

Section 74. **Rights of dissenting shareholders.** Any shareholder electing to exercise such right of dissent shall file with the corporation, prior to or at the meeting of shareholders at which such proposed corporate action is submitted to a vote, a written objection to such proposed corporate action. If such proposed corporate action be approved by the required vote and such shareholder shall not have voted in favor thereof, such shareholder may, within ten (10) days after the date on which the vote was taken, or if a corporation is to be merged without a vote of its shareholders into another corporation, any of its shareholders may, within fifteen (15) days after the plan of such merger shall have been mailed to such shareholders, make written demand on the corporation, or, in the case of a merger or consolidation, on the surviving or new corporation, domestic or foreign, for payment of the fair value of such shareholder's shares, and, if such proposed corporate action is effected, such corporation shall pay to such shareholder, upon surrender of the certificate or certificates representing such shares, the fair value thereof as of the day prior to the date on which the vote was taken approving the proposed corporate action, excluding any appreciation or depreciation in anticipation of such corporate action. Any shareholder failing to make demand within the ten-day period shall be bound by

HeinOnline -- 1967 vol. II 983 1967

the terms of the proposed corporate action. Any shareholder making such demand shall thereafter be entitled only to payment as in this section provided and shall not be entitled to vote or to exercise any other rights of a shareholder.

No such demand may be withdrawn unless the corporation shall consent thereto. If, however, such demand shall be withdrawn upon consent, or if the proposed corporate action shall be abandoned or rescinded or the shareholders shall revoke the authority to effect such action, or if, in the case of a merger, on the date of the filing of the articles of merger the surviving corporation is the owner of all the outstanding shares of the other corporations, domestic and foreign, that are parties to the merger, or if no demand or petition for the determination of fair value by a court shall have been made or filed within the time provided in this section, or if a court of competent jurisdiction shall determine that such shareholder is not entitled to the relief provided by this section, then the right of such shareholder to be paid the fair value of his shares shall cease and his status as a shareholder shall be restored, without prejudice to any corporate proceedings which may have been taken during the interim.

Within ten (10) days after such corporate action is effected, the corporation, or, in the case of a merger or consolidation, the surviving or new corporation, domestic or foreign, shall give written notice thereof to each dissenting shareholder who has made demand as herein provided, and shall make a written offer to each such shareholder to pay for such shares at a specified price deemed by such corporation to be the fair value thereof. Such notice and offer shall be accompanied by a balance sheet of the corporation the shares of which the dissenting shareholder holds, as of the latest available date and not more than twelve (12) months prior to the making of such offer, and a profit and loss statement of such corporation for the twelve (12) months' period ended on the date of such balance sheet.

If within thirty (30) days after the date on which such corporate action was effected the fair value of such shares is agreed upon between any such dissenting shareholder and the corporation, payment therefor shall be made within ninety (90) days after the date on which

HeinOnline -- 1967 vol. II 984 1967

such corporate action was effected, upon surrender of the certificate or certificates representing such shares. Upon payment of the agreed value the dissenting shareholder shall cease to have any interest in such shares.

If within such period of thirty (30) days a dissenting shareholder and the corporation do not so agree, then the corporation, within thirty (30) days after receipt of written demand from any dissenting shareholder given within sixty (60) days after the date on which such corporate action was effected, shall, or at its election at any time within such period of sixty (60) days may, file a petition in the district court in the county in this state where the registered office of the corporation is located praying that the fair value of such shares be found and determined. If, in the case of a merger or consolidation, the surviving or new corporation is a foreign corporation without a registered office in this state, such petition shall be filed in the county where the registered office of the domestic corporation was last located. If the corporation shall fail to institute the proceeding as herein provided, any dissenting shareholder may do so in the name of the corporation. All dissenting shareholders, wherever residing, shall be made parties to the proceeding as an action against their shares quasi in rem. Each dissenting shareholder shall be served personally or by publication as provided by the Montana Rules of Civil Procedure. The jurisdiction of the court shall be plenary and exclusive. All shareholders who are parties to the proceeding shall be entitled to judgment against the corporation for the amount of the fair value of their shares. The court may, if it so elects, appoint one (1) or more persons as appraiser to receive evidence and recommend a decision on the question of fair value. The appraisers shall have such power and authority as shall be specified in the order of their appointment or an amendment thereof. The judgment shall be payable only upon and concurrently with the surrender to the corporation of the certificate or certificates representing such shares. Upon payment of the judgment, the dissenting shareholder shall cease to have any interest in such shares.

The judgment shall include an allowance for interest at such rate as the court may find to be fair and equitable in all the circumstances, from the date on which the

HeinOnline -- 1967 vol. II 985 1967

vote was taken on the proposed corporate action to the date of payment.

The costs and expenses of any such proceeding shall be determined by the court and shall be assessed against the corporation, but all or any part of such costs and expenses may be apportioned and assessed as the court may deem equitable against any or all of the dissenting shareholders who are parties to the proceeding to whom the corporation shall have made an offer to pay for the shares if the court shall find that the action of such shareholders in failing to accept such offer was arbitrary or vexatious or not in good faith. Such expenses shall include reasonable compensation for and reasonable expenses of the appraisers, but shall exclude the fees and expenses of counsel for and experts employed by any party; but if the fair value of the shares as determined materially exceeds the amount which the corporation offered to pay therefor, or if no offer was made, the court in its discretion may award to any shareholder who is a party to the proceeding such sum as the court may determine to be reasonable compensation to any expert or experts employed by the shareholder in the proceeding.

Within twenty (20) days after demanding payment for his shares, each shareholder demanding payment shall submit the certificate or certificates representing his shares to the corporation for notation thereon that such demand has been made. His failure to do so shall, at the option of the corporation, terminate his rights under this section unless a court of competent jurisdiction, for good and sufficient cause shown, shall otherwise direct. If shares represented by a certificate on which notation has been so made shall be transferred, each new certificate issued therefor shall bear similar notation, together with the name of the original dissenting holder of such shares, and a transferee of such shares shall acquire by such transfer no rights in the corporation other than those which the original dissenting shareholder had after making demand for payment of the fair value thereof.

Shares acquired by a corporation pursuant to payment of the agreed value therefor or to payment of the judgment entered therefor, as in this section provided, may be held and disposed of by such corporation as in the case of other treasury shares, except that, in the case of a merger or consolidation, they may be held and disposed of

HeinOnline -- 1967 vol. II 986 1967

as the plan of merger or consolidation may otherwise provide.

Voluntary dissolution by incorporators.

Section 75. **Voluntary dissolution by incorporators.** A corporation which has not commenced business and which has not issued any shares may be voluntarily dissolved by its incorporators at any time within two (2) years after the date of the issuance of its certificate of incorporation, in the following manner:

A. Articles of dissolution shall be executed in duplicate by a majority of the incorporators and verified by them, and shall set forth:

(a) The name of the corporation.

(b) The date of issuance of its certificate of incorporation.

(c) That none of its shares has been issued.

(d) That the corporation has not commenced business.

(e) That the amount, if any, actually paid in on subscriptions for its shares, less any part thereof disbursed for necessary expenses, has been returned to those entitled thereto.

(f) That no debts of the corporation remain unpaid.

(g) That a majority of the incorporators elect that the corporation be dissolved.

B. Duplicate originals of the articles of dissolution shall be delivered to the secretary of state. If the secretary of state finds that the articles of dissolution conform to law, he shall, when all fees have been paid as in this act prescribed:

(1) Endorse on each of such duplicate originals the word "filed," and the month, day and year of the filing thereof.

(2) File one of such duplicate originals in his office.

(3) Issue a certificate of dissolution to which he shall affix the other duplicate original.

The certificate of dissolution, together with the duplicate original of the articles of dissolution affixed thereto by the secretary of state, shall be returned to the incor-

HeinOnline -- 1967 vol. II 987 1967

porators or their representative. Upon the issuance of such certificate of dissolution by the secretary of state, the existence of the corporation shall cease.

Voluntary dissolution by consent of shareholders.

Section 76. **Voluntary dissolution by consent of shareholders.** A corporation may be voluntarily dissolved by the written consent of all of its shareholders.

Upon the execution of such written consent, a statement of intent to dissolve shall be executed in duplicate by the corporation by its president or a vice-president and by its secretary or an assistant secretary, and verified by one (1) of the officers signing such statement, which statement shall set forth:

(a) The name of the corporation.

(b) The names and respective addresses of its officers.

(c) The names and respective addresses of its directors.

(d) A copy of the written consent signed by all shareholders of the corporation.

(e) A statement that such written consent has been signed by all shareholders of the corporation or signed in their names by their attorneys thereunto duly authorized.

Voluntary dissolution by act of corporation.

Section 77. **Voluntary dissolution by act of corporation.** A corporation may be dissolved by the act of the corporation, when authorized in the following manner:

(1) The board of directors shall adopt a resolution recommending that the corporation be dissolved, and directing that the question of such dissolution be submitted to a vote at a meeting of shareholders, which may be either an annual or a special meeting.

(2) Written notice shall be given to each shareholder of record entitled to vote at such meeting within the time and in the manner provided in this act for the giving of notice of meetings of shareholders, and, whether the meeting be an annual or special meeting, shall state that the purpose, or one of the purposes, of such meeting is to consider the advisability of dissolving the corporation.

HeinOnline -- 1967 vol. II 988 1967

(3) At such a meeting a vote of shareholders entitled to vote thereat shall be taken on a resolution to dissolve the corporation. Such resolution shall be adopted upon receiving the affirmative vote of the holders of two-thirds (2/3) of the shares of the corporation entitled to vote thereon, unless any class of shares is entitled to vote thereon as a class, in which event the resolution shall be adopted upon receiving the affirmative vote of the holders of two-thirds (2/3) of the shares of each class of shares entitled to vote thereon as a class and of the total shares entitled to vote thereon.

(4) Upon the adoption of such resolution, a statement of intent to dissolve shall be executed in duplicate by the corporation by its president or a vice-president and by its secretary or an assistant secretary, and verified by one (1) of the officers signing such statement, which statement shall set forth:

(a) The name of the corporation.

(b) The names and respective addresses of its officers.

(c) The names and respective addresses of its directors.

(d) A copy of the resolution adopted by the shareholders authorizing the dissolution of the corporation.

(e) The number of shares outstanding, and, if the shares of any class are entitled to vote as a class, the designation and number of outstanding shares of each such class.

(f) The number of shares voted for and against the resolution, respectively, and, if the shares of any class are entitled to vote as a class, the number of shares of each such class voted for and against the resolution, respectively.

Filing statement of intent to dissolve.

Section 78. **Filing of statement of intent to dissolve.** Duplicate originals of the statement of intent to dissolve, whether by consent of shareholders or by act of the corporation, shall be delivered to the secretary of state. If the secretary of state finds that such statement conforms to law, he shall, when all fees have been paid as in this act prescribed:

HeinOnline -- 1967 vol. II 989 1967

(1) Endorse on each of such duplicate originals the word "filed," and the month, day and year of the filing thereof.

(2) File one (1) of such duplicate originals in his office.

(3) Return the other duplicate original to the corporation or its representative.

Effect of statement of intent to dissolve.

Section 79. **Effect of statement of intent to dissolve.** Upon the filing by the secretary of state of a statement of intent to dissolve, whether by consent of shareholders or by act of the corporation, the corporation shall cease to carry on its business, except in so far as may be necessary for the winding up thereof, but its corporate existence shall continue until a certificate of dissolution has been issued by the secretary of state or until a decree dissolving the corporation has been entered by a court of competent jurisdiction as in this act provided.

Procedure after filing of statement of intent to dissolve.

Section 80. **Procedure after filing of statement of intent to dissolve.** After the filing by the secretary of state of a statement of intent to dissolve:

(a) The corporation shall immediately cause notice thereof to be mailed to each known creditor of the corporation.

(b) The corporation shall proceed to collect its assets, convey and dispose of such of its properties as are not to be distributed in kind to its shareholders, pay, satisfy and discharge its liabilities and obligations and do all other acts required to liquidate its business and affairs, and, after paying or adequately providing for the payment of all its obligations, distribute the remainder of its assets, either in cash or in kind, among its shareholders according to their respective rights and interests.

(c) The corporation, at any time during the liquidation of its business and affairs, may make application to a court of competent jurisdiction within the state and judicial subdivision in which the registered office or principal place of business of the corporation is situated, to have the liquidation continued under the supervision of the court as provided in this act.

Revocation of voluntary dissolution proceedings by consent of shareholders.

Section 81. **Revocation of voluntary dissolution proceedings by consent of shareholders.** By the written consent of all of its shareholders, a corporation may, at

HeinOnline -- 1967 vol. II 990 1967

any time prior to the issuance of a certificate of dissolution by the secretary of state, revoke voluntary dissolution proceedings theretofore taken, in the following manner:

Upon the execution of such written consent, a statement of revocation of voluntary dissolution proceedings shall be executed in duplicate by the corporation by its president or a vice-president and by its secertary or an assistant secretary, and verified by one of the officers signing such statement, which statement shall set forth:

(a) The name of the corporation.

(b) The names and respective addresses of its officers.

(c) The names and respective addresses of its directors.

(d) A copy of the written consent signed by all shareholders of the corporation revoking such voluntary dissolution proceedings.

(e) That such written consent has been signed by all shareholders of the corporation or signed in their names by their attorneys thereunto duly authorized.

Revocation of voluntary dissolution proceedings by act of corporation.

Section 82. **Revocation of voluntary dissolution proceedings by act of corporation.** By the act of the corporation, a corporation may, at any time prior to the issuance of a certificate of dissolution by the secretary of state, revoke voluntary dissolution proceedings theretofore taken, in the following manner:

(1) The board of directors shall adopt a resolution recommending that the voluntary dissolution proceedings be revoked, and directing that the question of such revocation be submitted to a vote at a special meeting of shareholders.

(2) Written notice, stating that the purpose or one of the purposes of such meeting is to consider the advisability of revoking the voluntary dissolution proceedings, shall be given to each shareholder of record entitled to vote at such meeting within the time and in the manner provided in this act for the giving of notice of special meetings of shareholders.

(3) At such meeting a vote of the shareholders entitled to vote thereat shall be taken on a resolution to

HeinOnline -- 1967 vol. II 991 1967

revoke the voluntary dissolution proceedings, which shall require for its adoption the affirmative vote of the holders of two-thirds (2/3) of the shares entitled to vote thereon.

(4) Upon the adoption of such resolution, a statement of revocation of voluntary dissolution proceedings shall be executed in duplicate by the corporation by its president or a vice-president and by its secretary or an assistant secretary, and verified by one of the officers signing such statement, which statement shall set forth:

(a) The name of the corporation.

(b) The names and respective addresses of its officers.

(c) The names and respective addresses of its directors.

(d) A copy of the resolution adopted by the shareholders revoking the voluntary dissolution proceedings.

(e) The number of shares outstanding.

(f) The number of shares voted for and against the resolution, respectively.

Filing of statement of revocation of voluntary dissolution proceedings.

Section 83. **Filing of statement of revocation of voluntary dissolution proceedings.** Duplicate originals of the statement of revocation of voluntary dissolution proceedings, whether by consent of shareholders or by act of the corporation, shall be delivered to the secretary of state. If the secretary of state finds that such statement conforms to law, he shall, when all fees have been paid as in this act prescribed:

(1) Endorse on each of such duplicate originals the word "filed," and the month, day and year of the filing thereof.

(2) File one of such duplicate originals in his office.

(3) Return the other duplicate original to the corporation or its representative.

Effect of statement of revocation of voluntary dissolution proceedings

Section 84. **Effect of statement of revocation of voluntary dissolution proceedings.** Upon the filing by the secretary of state of a statement of revocation of voluntary dissolution proceedings, whether by consent of shareholders or by act of the corporation, the revocation of the

HeinOnline -- 1967 vol. II 992 1967

voluntary dissolution proceedings shall become effective and the corporation may again carry on its business.

Articles of dissolution; tax clearance certificate.

Section 85. **Articles of dissolution; tax clearance certificate.** If voluntary dissolution proceedings have not been revoked, then when all debts, liabilities and obligations of the corporation have been paid and discharged, or adequate provision has been made therefor, and all of the remaining property and assets of the corporation have been distributed to its shareholders, articles of dissolution shall be executed in duplicate by the corporation by its president or a vice-president and by its secretary or an assistant secretary, and verified by one of the officers signing such statement, which statement shall set forth:

(a) The name of the corporation.

(b) That the secretary of state has theretofore filed a statement of intent to dissolve the corporation, and the date on which such statement was filed.

(c) That all debts, obligations and liabilities of the corporation have been paid and discharged or that adequate provision has been made therefor.

(d) That all the remaining property and assets of the corporation have been distributed among its shareholders in accordance with their respective rights and interests.

(e) That there are no suits pending against the corporation in any court, or that adequate provision has been made for the satisfaction of any judgment, order or decree which may be entered against it in any pending suit.

(f) No decree of voluntary dissolution shall be made and entered by any court, nor shall the clerk of the district court of any county or secretary of state file any such decree, or file any other document by which the term of existence of any corporation is terminated, nor shall the secretary of state file any certificate of surrender by a foreign corporation of its right to do intrastate business in the state unless the corporation obtains from the state board of equalization and files with said court, clerk of the district court, or secretary of state as part of the original instrument effecting the dissolution or withdrawal, a certificate to the effect the state board of equalization is satisfied from the available evi-

HeinOnline -- 1967 vol. II 993 1967

dence that all taxes imposed by title 84 of the Revised Codes of Montana have been paid. The issuance of the certificate shall not relieve the corporation from liability for any taxes, penalties, or interest due the state of Montana.

Filing of articles of dissolution.

Section 86. **Filing of articles of dissolution.** Duplicate originals of such articles of dissolution shall be delivered to the secretary of state. If the secretary of state finds that such articles of dissolution conform to law, he shall, when all fees have been paid as in this act prescribed:

(1) Endorse on each of such duplicate originals the word "filed," and the month, day and year of the filing thereof.

(2) File one of such duplicate originals in his office.

(3) Issue a certificate of dissolution to which he shall affix the other duplicate original.

The certificate of dissolution, together with the duplicate original of the articles of dissolution affixed thereto by the secretary of state, shall be returned to the representative of the dissolved corporation. Upon the issuance of such certificate of dissolution the existence of the corporation shall cease, except for the purpose of suits, other proceedings and appropriate corporate action by shareholders, directors and officers as provided in this act.

Involuntary dissolution.

Section 87. **Involuntary dissolution.** A corporation may be dissolved involuntarily by a decree of the district court in an action filed by the attorney general when it is established that:

(a) The corporation has failed to file its annual report within the time required by this act; or

(b) The corporation procured its certificate of incorporation through fraud; or

(c) The corporation has exceeded or abused the authority conferred upon it by law and that such excesses or abuses have continued after a written notice specifying the manner in which the corporation has exceeded or abused such authority has been received by the registered agent of the corporation from the attorney general; or

HeinOnline -- 1967 vol. II 994 1967

(d) The corporation has failed for thirty (30) days to appoint and maintain a registered agent in this state; or

(e) The corporation has failed for thirty (30) days after change of its registered office or registered agent to file in the office of the secretary of state a statement of such change.

Notification to attorney general.

Section 88. **Notification to attorney general.** The secretary of state, on or before the last day of December of each year, shall certify to the attorney general the names of all corporations which have failed to file their annual reports in accordance with the provisions of this act, together with the facts pertinent thereto. He shall also certify, from time to time, the names of all corporations which have given other cause for dissolution as provided in this act, together with the facts pertinent thereto. Whenever the secretary of state shall certify the name of a corporation to the attorney general as having given any cause for dissolution, the secretary of state shall concurrently mail to the corporation at its registered office a notice that such certification has been made. Upon the receipt of such certification, the attorney general shall file an action in the name of the state against such corporation for its dissolution. Every such certificate from the secretary of state to the attorney general pertaining to the failure of a corporation to file an annual report shall be taken and received in all courts as prima facie evidence of the facts therein stated. If, before action is filed, the corporation shall file its annual report, together with all penalties thereon, or shall appoint or maintain a registered agent as provided in this act, or shall file with the secretary of state the required statement of change of registered office or registered agent, such fact shall be forthwith certified by the secretary of state to the attorney general and he shall not file an action against such corporation for such cause. If, after action is filed, the corporation shall file its annual report or shall appoint or maintain a registered agent as provided in this act, or shall file with the secretary of state the required statement of change of registered office or registered agent, and shall pay the costs of such action, the action for such cause shall abate.

Venue and process.

Section 89. **Venue and process.** Every action for the involuntary dissolution of a corporation shall be com-

HeinOnline -- 1967 vol. II 995 1967

menced by the attorney general either in the district court of the county in which the registered office of the corporation is situated, or, if there is no registered office, then in the district court of Lewis and Clark County. Summons shall issue and be served in the manner provided by the Montana Rules of Civil Procedure. If process is returned not found, the attorney general shall cause publication to be made as in other civil cases in some newspaper published in the county where the registered office of the corporation is situated, containing a notice of the pendency of such action, the title of the court, the title of the action, and the date on or after which default may be entered. The attorney general may include in one notice the names of any number of corporations against which actions are then pending in the same court. The attorney general shall cause a copy of such notice to be mailed to the corporation at its registered office within ten days after the first publication thereof. The certificate of the attorney general of the mailing of such notice shall be prima facie evidence thereof. Such notice shall be published at least once each week for two successive weeks, and the first publication thereof may begin at any time after the summons has been returned. Unless a corporation shall have been served with summons, no default shall be taken against it earlier than thirty (30) days after the first publication of such notice.

Jurisdiction of court to liquidate assets and business of corporation.

Section 90. **Jurisdiction of court to liquidate assets and business of corporation.** The district courts shall have full power to liquidate the assets and business of a corporation:

(a) In an action by a shareholder when it is established:

(1) That the directors are deadlocked in the management of the corporate affairs and the shareholders are unable to break the deadlock, and that irreparable injury to the corporation is being suffered or is threatened by reason thereof; or

(2) That the acts of the directors or those in control of the corporation are illegal, oppressive or fraudulent; or

(3) That the shareholders are deadlocked in voting power, and have failed for a period which includes at

HeinOnline -- 1967 vol. II 996 1967

least two consecutive annual meeting dates, to elect successors to directors whose terms have expired or would have expired upon the election of their successors; or

(4) That the corporate assets are being misapplied or wasted.

(b) In an action by a creditor:

(1) When the claim of the creditor has been reduced to judgment and an execution thereon returned unsatisfied and it is established that the corporation is insolvent; or

(2) When the corporation has admitted in writing that the claim of the creditor is due and owing and it is established that the corporation is insolvent.

(c) Upon application by a corporation which has filed a statement of intent to dissolve, as provided in this act, to have its liquidation continued under the supervision of the court.

(d) When an action has been filed by the attorney general to dissolve a corporation and it is established that liquidation of its business and affairs should precede the entry of a decree of dissolution.

Proceedings under clause (a), (b) or (c) of this section shall be brought in the county in which the registered office or the principal office of the corporation is situated.

It shall not be necessary to make shareholders parties to any such action or proceeding unless relief is sought against them personally.

Procedure in liquidation of corporation by court.

Section 91. **Procedure in liquidation of corporation by court.** In proceedings to liquidate the assets and business of a corporation the court shall have power to issue injunctions, to appoint a receiver or receivers pendente lite, with such powers and duties as the court, from time to time, may direct, and to take such other proceedings as may be requisite to preserve the corporate assets wherever situated, and carry on the business of the corporation until a full hearing can be had.

After a hearing had upon such notice as the court may direct to be given to all parties to the proceedings and to any other parties in interest designated by the court, the

HeinOnline -- 1967 vol. II 997 1967

court may appoint a liquidating receiver or receivers with authority to collect the assets of the corporation, including all amounts owing to the corporation by shareholders on account of any unpaid portion of the consideration for the issuance of shares. Such liquidating receiver or receivers shall have authority, subject to the order of the court, to sell, convey and dispose of all or any part of the assets of the corporation wherever situated, either at public or private sale. The assets of the corporation or the proceeds resulting from a sale, conveyance or other disposition therof shall be applied to the expenses of such liquidation and to the payment of the liabilities and obligations of the corporation, and any remaining assets or proceeds shall be distributed among its shareholders according to their respective rights and interests. The order appointing such liquidating receiver or receivers shall state their powers and duties. Such powers and duties may be increased or diminished at any time during the proceedings.

The court shall have power to allow from time to time as expenses of the liquidation compensation to the receiver or receivers and to attorneys in the proceeding. and to direct the payment thereof out of the assets of the corporation or the proceeds of any sale or disposition of such assets.

A receiver of a corporation appointed under the provisions of this section shall have authority to sue and defend in all courts in his own name as receiver of such corporation. The court appointing such receiver shall have exclusive jurisdiction of the corporation and its property, wherever situated.

Qualifications of receivers.

Section 92. **Qualifications of receivers.** A receiver shall in all cases be a citizen of the United States or a corporation authorized to act as receiver, which corporation may be a domestic corporation or a foreign corporation authorized to transact business in this state, and shall in all cases give such bond as the court may direct with such sureties as the court may require.

Filing of claims in liquidation proceedings.

Section 93. **Filing of claims in liquidation proceedings.** In proceedings to liquidate the assets and business of a corporation the court may require all creditors of the corporation to file with the clerk of the court or with the receiver, in such form as the court may prescribe,

HeinOnline -- 1967 vol. II 998 1967

proofs under oath of their respective claims. If the court requires filing of claims it shall fix a date, which shall be not less than four months from the date of the order, as the last day for the filing of claims, and shall prescribe the notice that shall be given to creditors and claimants of the date so fixed. Prior to the date so fixed, the court may extend the time for the filing of claims. Creditors and claimants failing to file proofs of claim on or before the date so fixed may be barred, by order of court, from participating in the distribution of the assets of the corporation.

Discontinuance of liquidation proceedings.

Section 94. **Discontinuance of liquidation proceedings.** The liquidation of the assets and business of a corporation may be discontinued at any time during the liquidation proceedings when it is established that cause for liquidation no longer exists. In such event the court shall dismiss the proceedings and direct the receiver to redeliver to the corporation all its remaining property and assets.

Decree of involuntary dissolution.

Section 95. **Decree of involuntary dissolution.** In proceedings to liquidate the assets and business of a corporation, when the costs and expenses of such proceedings and all debts, obligations and liabilities of the corporation shall have been paid and discharged and all of its remaining property and assets distributed to its shareholders, or in case its property and assets are not sufficient to satisfy and discharge such costs, expenses, debts and obligations, all the property and assets have been applied so far as they will go to their payment, the court shall enter a decree dissolving the corporation, whereupon the existence of the corporation shall cease.

Filing of decree of dissolution.

Section 96. **Filing of decree of dissolution.** In case the court shall enter a decree dissolving a corporation, it shall be the duty of the clerk of such court to cause a certified copy of the decree to be filed with the secretary of state. No fee shall be charged by the secretary of state for the filing thereof.

Deposit with state treasurer of amount due certain shareholders.

Section 97. **Deposit with state treasurer of amount due certain shareholders.** Upon the voluntary or involuntary dissolution of a corporation, the portion of the assets distributable to a creditor or shareholder who is unknown or cannot be found, or who is under disability and there is no person legally competent to receive such distributive

HeinOnline -- 1967 vol. II 999 1967

portion, shall be reduced to cash and deposited with the state treasurer and shall be paid over to such creditor or shareholder or to his legal representative upon proof satisfactory to the state treasurer of his right thereto, or shall be disposed of by the state treasurer in the manner provided by law.

Survival of remedy after dissolution.

Section 98. **Survival of remedy after dissolution.** The dissolution of a corporation either

(1) by the issuance of a certificate of dissolution by the secretary of state, or

(2) by a decree of court when the court has not liquidated the assets and business of the corporation as provided in this act, or

(3) by expiration of its period of duration, shall not take away or impair any remedy available to or against such corporation, its directors, officers, or shareholders, for any right or claim existing, or any liability incurred, prior to such dissolution if action or other proceeding thereon is commenced within five (5) years after the date of such dissolution.

Any such action or proceeding by or against the corporation may be prosecuted or defended by the corporation in its corporate name. The shareholders, directors and officers shall have power to take such corporate or other action as shall be appropriate to protect such remedy, right or claim. If such corporation was dissolved by the expiration of its period of duration, such corporation may amend its articles of incorporation at any time during such period of five (5) years so as to extend its period of duration.

Whenever any such corporation is the owner of real or personal property, or claims any interest or lien whatsoever in any real or personal property, such corporation shall continue to exist during such five-year period for the purpose of conveying, transferring and releasing such real or personal property or interest or lien therein, and such corporation shall continue after the expiration of such five-year period to exist as a body corporate for the purpose of being made a party to, and being sued in any action, suit or proceeding against it involving the title to any such real or personal property or any interest therein, and not otherwise; and any such action, suit or

HeinOnline -- 1967 vol. II 1000 1967

proceeding may be instituted and maintained against any such corporation as might have been had prior to the expiration of said five-year period. This section shall not be construed as affecting or suspending any statute of limitations applicable to any suit, action or proceeding instituted hereunder.

For the purpose of service of any process, notice or demand within the prescribed time following such dissolution, the secretary of state shall be an agent of the dissolved corporation upon whom service may be made in the manner prescribed in the Montana Rules of Civil Procedure.

Admission of foreign corporation.

Section 99. **Admission of foreign corporation.** No foreign corporation shall have the right to transact business in this state until it shall have procured a certificate of authority so to do from the secretary of state. No foreign corporation shall be entitled to procure a certificate of authority under this act to transact in this state any business which a corporation organized under this act is not permitted to transact. A foreign corporation shall not be denied a certificate of authority by reason of the fact that the laws of the state or country under which such corporation is organized governing its organization and internal affairs differ from the laws of this state, and nothing in this act contained shall be construed to authorize this state to regulate the organization or the internal affairs of such corporation.

Without excluding other activities which may not constitute transacting business in this state, a foreign corporation shall not be considered to be transacting business in this state, for the purposes of this act, by reason of carrying on in this state any one or more of the following activities:

(a) Maintaining or defending any action or suit or any administrative or arbitration proceeding, or effecting the settlement thereof or the settlement of claims or disputes.

(b) Holding meetings of its directors or shareholders or carrying on other activities concerning its internal affairs.

(c) Maintaining bank accounts.

HeinOnline -- 1967 vol. II 1001 1967

(d) Maintaining offices or agencies for the transfer, exchange and registration of its securities, or appointing and maintaining trustees or depositaries with relation to its securities.

(e) Effecting sales through independent contractors.

(f) Soliciting or procuring orders, whether by mail or through employees or agents or otherwise, where such orders require acceptance without this state before becoming binding contracts.

(g) Creating evidences of debt, mortgages or liens on real or personal property.

(h) Securing or collecting debts or enforcing any rights in property securing the same.

(i) Transacting any business in interstate commerce.

(j) Conducting an isolated transaction completed within a period of thirty (30) days and not in the course of a number of repeated transactions of like nature.

Powers of foreign corporation.

Section 100. **Powers of foreign corporation.** A foreign corporation which shall have received a certificate of authority under this act shall, until a certificate of revocation or of withdrawal shall have been issued as provided in this act, enjoy the same, but no greater, rights and privileges as a domestic corporation organized for the purposes set forth in the application pursuant to which such certificate of authority is issued; and, except as in this act otherwise provided, shall be subject to the same duties, restrictions, penalties and liabilities now or hereafter imposed upon a domestic corporation of like character.

Corporate name of foreign corporation.

Section 101. **Corporate name of foreign corporation.** No certificate of authority shall be issued to a foreign corporation unless the corporate name of such corporation:

(a) Shall not contain any word or phrase which indicates or implies that it is organized for any purpose other than one (1) or more of the purposes contained in its articles of incorporation or that it is authorized or empowered to conduct the business of banking or insurance.

HeinOnline -- 1967 vol. II 1002 1967

(b) Shall not be the same as, or deceptively similar to, the name of any domestic corporation existing under the laws of this state or any foreign corporation authorized to transact business in this state or a name the exclusive right to which is at the time, reserved in the manner provided in this act, or the name of a corporation which has in effect a registration of its name as provided in this act.

Change of name by foreign corporation.

Section 102. **Change of name by foreign corporation.**

Whenever a foreign corporation which is authorized to transact business in this state shall change its name to one under which a certificate of authority would not be granted to it on application therefor, the certificate of authority of such corporation shall be suspended and it shall not thereafter transact any business in this state until it has changed its name to a name which is available to it under the laws of this state.

Application for certificate of authority.

Section 103. **Application for a certificate of authority.** A foreign corporation, in order to procure a certificate of authority to transact business in this state, shall make application therefor to the secretary of state, which application shall set forth:

(a) The name of the corporation and the state or country under the laws of which it is incorporated.

(b) The date of incorporation and the period of duration of the corporation.

(c) The address, including street and number, if any, of the principal office of the corporation in the state or country under the laws of which it is incorporated.

(d) The address of the proposed registered office of the corporation in this state, and the name of its proposed registered agent in this state at such address.

(e) The purpose or purposes of the corporation which it proposes to pursue in the transaction of business in this state.

(f) The names and respective addresses of the directors and officers of the corporation.

(g) A statement of the aggregate number of shares which the corporation has authority to issue, itemized

HeinOnline -- 1967 vol. II 1003 1967

by classes, par value of shares, shares without par value, and series, if any, within a class.

(h) A statement of the aggregate number of issued shares itemized by classes, par value of shares, shares without par value, and series, if any, within a class.

(i) A statement, expressed in dollars, of the amount of stated capital of the corporation, as defined in this act.

(j) Such additional information as may be necessary or appropriate in order to enable the secretary of state to determine whether such corporation is entitled to a certificate of authority to transact business in this state and to determine and assess the fees payable.

Such application shall be executed in duplicate by the corporation by its president or a vice-president and by its secretary or an assistant secretary, and verified by one of the officers signing such application.

Filing of application for certificate of authority.

Section 104. **Filing of application for certificate of authority.** Duplicate originals of the application of the corporation for a certificate of authority shall be delivered to the secretary of state, together with a copy of its articles of incorporation and all amendments thereto duly authenticated by manual or facsimile signature by the proper officer of the state or country of incorporation.

If the secretary of state finds that such application conforms to law, he shall, when all fees have been paid as in this act prescribed:

(1) Endorse on each of such documents the word "filed," and the month, day and year of the filing thereof.

(2) File in his office one of such duplicate originals of the application and the copy of the articles of incorporation and amendments thereto.

(3) Issue a certificate of authority to transact business in this state to which he shall affix the other duplicate original application.

The certificate of authority, together with the duplicate original of the application affixed thereto by the secretary of state shall be returned to the corporation or its representative.

HeinOnline -- 1967 vol. II 1004 1967

Effect of certificate of authority.

Section 105. **Effect of certificate of authority.** Upon the issuance of a certificate of authority by the secretary of state, the corporation shall be authorized to transact business in this state for those purposes set forth in its application, subject, however, to the right of this state to suspend or to revoke such authority as provided in this act.

Registered office and registered agent of foreign corporations.

Section 106. **Registered office and registered agent of foreign corporation.** Each foreign corporation authorized to transact business in this state shall have and continuously maintain in this state:

(a) A registered office which may be, but need not be, the same as its place of business in this state.

(b) A registered agent, which agent may be either an individual resident in this state whose business office is identical with such registered office, or a domestic corporation, or a foreign corporation authorized to transact business in this state, having a business office identical with such registered office.

Change of registered office or registered agent of foreign corporation.

Section 107. **Change of registered office or registered agent of foreign corporation.** A foreign corporation authorized to transact business in this state may change its registered office or change its registered agent, or both, upon filing in the office of the secretary of state a statement setting forth:

(a) The name of the corporation.

(b) The address, including street and number, if any, of its then registered office.

(c) If the address of its registered office be changed, the address, including street and number, if any, to which the registered office is to be changed.

(d) The name of its then registered agent.

(e) If its registered agent be changed, the name of its successor registered agent.

(f) That the address, including street and number, if any, of its registered office and the address of the business office of its registered agent, as changed, will be identical.

(g) That such change was authorized by resolution duly adopted by its board of directors.

HeinOnline -- 1967 vol. II 1005 1967

Such statement shall be executed by the corporation by its president or a vice-president, and verified by him, and delivered to the secretary of state. If the secretary of state finds that such statement conforms to the provisions of this act, he shall file such statement in his office, and upon such filing the change of address of the registered office, or the appointment of a new registered agent, or both, as the case may be, shall become effective.

Any registered agent of a foreign corporation may resign as such agent upon filing a written notice thereof, executed in duplicate, with the secretary of state, who shall forthwith mail a copy thereof to the corporation at its principal office in the state or country under the laws of which it is incorporated. The appointment of such agent shall terminate upon the expiration of thirty (30) days after receipt of such notice by the secretary of state.

If a registered agent changes his or its business address to another place within the same county, he or it may change such address and the address of the registered office of any corporations of which he or it is registered agent by filing a statement as required above except that it need be signed only by the registered agent and need not be responsive to (e) or (g) and must recite that a copy of the statement has been mailed to each such corporation.

Service of process on foreign corporation.

Section 108. **Service of process on foreign corporation.** Service of process upon a foreign corporation shall be effected upon the persons and in the manner provided by the Montana Rules of Civil Procedure.

Amendment to articles of incorporation of foreign corporation.

Section 109. **Amendment to articles of incorporation of foreign corporation.** Whenever the articles of incorporation of a foreign corporation authorized to transact business in this state are amended, such foreign corporation shall, within sixty (60) days after such amendment becomes effective, file in the office of the secretary of state a copy of such amendment duly authenticated by the proper officer of the state or country under the laws of which it is incorporated; but the filing thereof shall not of itself enlarge or alter the purpose or purposes which such corporation is authorized to pursue in the transaction of business in this state.

Merger of foreign corporation authorized to transact business in this state.

Section 110. **Merger of foreign corporation authorized to transact business in this state.** Whenever a foreign corporation authorized to transact business in this state shall

HeinOnline -- 1967 vol. II 1006 1967

be a party to a statutory merger permitted by the laws of the state or country under the laws of which it is incorporated, and such corporation shall be the surviving corporation, it shall, within sixty (60) days after such merger becomes effective, file with the secretary of state a copy of the articles of merger duly authenticated by the proper officer of the state or country under the laws of which such statutory merger was effected; and it shall not be necessary for such corporation to procure either a new or amended certificate of authority to transact business in this state unless the name of such corporation be changed thereby or unless the corporation desires to pursue in this state other or additional purposes than those which it is then authorized to transact in this state.

Amended certificate of authority.

Section 111. **Amended certificate of authority.** A foreign corporation authorized to transact business in this state shall procure an amended certificate of authority in the event it changes its corporate name, or desires to pursue in this state other or additional purposes than those set forth in its prior application for a certificate of authority, by making application therefor to the secretary of state.

The requirements in respect to the form and contents of such application, the manner of its execution, the filing of duplicate originals thereof with the secretary of state, the issuance of an amended certificate of authority and the effect thereof, shall be the same as in the case of an original application for a certificate of authority.

Withdrawal of foreign corporation.

Section 112. **Withdrawal of foreign corporation.** A foreign corporation authorized to transact business in this state may withdraw from this state upon procuring from the secretary of state a certificate of withdrawal. In order to procure such certificate of withdrawal, such foreign corporation shall deliver to the secretary of state an application for withdrawal, which shall set forth:

(a) The name of the corporation and the state or country under the laws of which it is incorporated.

(b) That the corporation is not transacting business in this state.

(c) That the corporation surrenders its authority to transact business in this state.

HeinOnline -- 1967 vol. II 1007 1967

(d) That the corporation revokes the authority of its registered agent in this state to accept service of process and consents that service of process in any action, suit or proceeding based upon any cause of action arising in this state during the time the corporation was authorized to transact business in this state may thereafter be made on such corporation by service thereof on the secretary of state.

(e) A post-office address, including street and number, if any, to which the secretary of state may mail a copy of any process against the corporation that may be served on him.

(f) That all taxes imposed on the corporation by title 84 of the Revised Codes of Montana have been paid, supported by a certificate by the state board of equalization, to be attached to said application, to the effect that the state board of equalization is satisfied from the available evidence that all taxes imposed by title 84 of the Revised Codes of Montana have been paid. The issuance of such a certificate shall not relieve the corporation from liability for any taxes, penalties, or interest due the state of Montana.

The application for withdrawal shall be made in a form prescribed by the secretary of state and shall be executed for the corporation by its president or a vice-president and by its secretary or an assistant secretary, and verified by one of the officers signing the application, or, if the corporation is in the hands of a receiver or trustee, shall be executed on behalf of the corporation by such receiver or trustee and verified by him.

Filing of application for withdrawal.

Section 113. **Filing of application for withdrawal.** Duplicate originals of such application for withdrawal shall be delivered to the secretary of state. If the secretary of state finds that such application conforms to the provisions of this act, he shall, when all fees have been paid as in this act prescribed:

(1) Endorse on each of such duplicate originals the word "filed," and the month, day and year of the filing thereof.

(2) File one of such duplicate originals in his office.

(3) Issue a certificate of withdrawal to which he shall affix the other duplicate original.

HeinOnline -- 1967 vol. II 1008 1967

The certificate of withdrawal, together with the duplicate original of the application for withdrawal affixed thereto by the secretary of state, shall be returned to the corporation or its representative. Upon the issuance of such certificate of withdrawal, the authority of the corporation to transact business in this state shall cease.

Revocation of certificate of authority.

Section 114. **Revocation of certificate of authority.** The certificate of authority of a foreign corporation to transact business in this state may be revoked by the secretary of state upon the conditions prescribed in this section when:

(a) The corporation has failed to file its annual report within the time required by this act, or has failed to pay any fees prescribed by this act when they have become due and payable; or

(b) The corporation has failed to appoint and maintain a registered agent in this state as required by this act; or

(c) The corporation has failed, after change of its registered office or registered agent, to file in the office of the secretary of state a statement of such change as required by this act; or

(d) The corporation has failed to file in the office of the secretary of state any amendment to its articles of incorporation or any articles of merger within the time prescribed by this act; or

(e) A misrepresentation has been made of any material matter in any application, report, affidavit, or other document submitted by such corporation pursuant to this act.

No certificate of authority of a foreign corporation shall be revoked by the secretary of state unless

(1) he shall have given the corporation not less than sixty (60) days' notice thereof by mail addressed to its registered office in this state, and

(2) the corporation shall fail prior to revocation to file such annual report, or pay such fees, or file the required statement of change of registered agent or registered office, or file such articles of amendment or articles of merger, or correct such misrepresentation.

HeinOnline -- 1967 vol. II 1009 1967

Issuance of certificate of revocation.

Section 115. **Issuance of certificate of revocation.** Upon revoking any such certificate of authority, the secretary of state shall:

(1) Issue a certificate of revocation in duplicate.

(2) File one of such certificates in his office.

(3) Mail to such corporation at its registered office in this state a notice of such revocation accompanied by one of such certificates.

Upon the issuance of such certificate of revocation, the authority of the corporation to transact business in this state shall cease.

Application to corporations heretofore authorized to transact business in this state.

Section 116. **Application to corporations heretofore authorized to transact business in this state.** Foreign corporations which are duly authorized to transact business in this state at the time this act takes effect, for a purpose or purposes for which a corporation might secure such authority under this act, shall, subject to the limitations set forth in their respective certificates of authority, be entitled to all the rights and privileges applicable to foreign corporations procuring certificates of authority to transact business in this state under this act, and from the time this act takes effect such corporations shall be subject to all the limitations, restrictions, liabilities and duties prescribed herein for foreign corporations procuring certificates of authority to transact business in this state under this act.

Transacting business without certificate of authority.

Section 117. **Transacting business without certificate of authority.** No foreign corporation transacting business in this state without a certificate of authority shall be permitted to maintain any action, suit or proceeding in any court in this state, until such corporation shall have obtained a certificate of authority. Nor shall any action, suit or proceeding be maintained in any court of this state by any successor or assignee of such corporation on any right, claim or demand arising out of the transaction of business by such corporation in this state, until a certificate of authority shall have been obtained by such corporation or by a corporation which has acquired all or substantially all of its assets.

The failure of a foreign corporation to obtain a certificate of authority to transact business in this state shall

HeinOnline -- 1967 vol. II 1010 1967

not impair the validity of any contract or act of such corporation, and shall not prevent such corporation from defending any action, suit or proceeding in any court of this state.

A foreign corporation which transacts business in this state without a certificate of authority shall be liable to this state, for the years or parts thereof during which it transacted business in this state without a certificate of authority, in an amount equal to all fees which would have been imposed by this act upon such corporation had it duly applied for and received a certificate of authority to transact business in this state as required by this act and thereafter filed all reports required by this act, plus all penalties imposed by this act for failure to pay such fees. The attorney general shall bring proceedings to recover all amounts due this state under the provisions of this section.

Annual report of domestic and foreign corporations.

Section 118. **Annual report of domestic and foreign corporations.** Each domestic corporation, and each foreign corporation authorized to transact business in this state, shall file, within the time prescribed by this act an annual report setting forth:

(a) The name of the corporation and the state or country under the laws of which it is incorporated.

(b) The address of the registered office of the corporation in this state, and the name of its registered agent in this state at such address, including street and number, if any, and, in the case of a foreign corporation, the address, including street and number, if any, of its principal office in the state or country under the laws of which it is incorporated.

(c) A brief statement of the character of the business in which the corporation is actually engaged in this state.

(d) The names and respective addresses, including street and number, if any, of the directors and officers of the corporation.

(e) A statement of the aggregate number of shares which the corporation has authority to issue, itemized by classes, par value of shares, shares without par value, and series, if any, within a class.

HeinOnline -- 1967 vol. II 1011 1967

(f) A statement of the aggregate number of issued shares, itemized by classes, par value of shares, shares without par value, and series, if any, within a class.

(g) A statement, expressed in dollars, of the amount of stated capital of the corporation, as defined in this act.

(h) In addition thereto, every foreign corporation shall include a statement, expressed in dollars, of the value of all the property owned by the corporation, wherever located, and the value of the property of the corporation located within this state, and a statement, expressed in dollars, of the gross amount of business transacted by the corporation for the twelve months ended on the thirty-first day of December preceding the date herein provided for the filing of such report and the gross amount thereof transacted by the corporation at or from places of business in this state. If, on the thirty-first day of December preceding the time herein provided for the filing of such report, the corporation had not been in existence for a period of twelve (12) months, or, in the case of a foreign corporation, had not been authorized to transact business in this state for a period of twelve (12) months, the statement with respect to business transacted shall be furnished for the period between the date of incorporation or the date of its authorization to transact business in this state, as the case may be, and such thirty-first day of December. If all the property of the corporation is located in this state and all of its business is transacted at or from places of business in this state, then the information required by this subparagraph need not be set forth in such report.

Such annual report shall be in a form prescribed by the secretary of state, and the information therein contained shall be given as of the date of the execution of the report, except as to the information required by subparagraph (g) which shall be given as of the close of business on the thirty-first day of December next preceding the date herein provided for the filing of such report. It shall be executed by the corporation by its president, a vice-president, secretary, an assistant secretary, or treasurer, and verified by the officer executing the report, or, if the corporation is in the hands of a receiver or trustee, it shall be executed on behalf of the corporation and verified by such receiver or trustee.

HeinOnline -- 1967 vol. II 1012 1967

Filing of annual report of domestic and foreign corporations.

Section 119. **Filing of annual report of domestic and foreign corporations.** Such annual report of a domestic or foreign corporation shall be delivered to the secretary of state between the first day of January and the first day of March of each year, except that the first annual report of a domestic or foreign corporation shall be filed between the first day of January and the first day of March of the year next succeeding the calendar year in which its certificate of incorporation or its certificate of authority, as the case may be, was issued by the secretary of state. Proof to the satisfaction of the secretary of state that prior to the first day of March such report was deposited in the United States mail in a sealed envelope, properly addressed, with postage prepaid, shall be deemed a compliance with this requirement. If the secretary of state finds that such report conforms to the requirements of this act, he shall file the same. If he finds that it does not so conform, he shall promptly return the same to the corporation for any necessary corrections, in which event the penalties hereinafter prescribed for failure to file such report within the time hereinabove provided shall not apply, if such report is corrected to conform to the requirements of this act and returned to the secretary of state within thirty days from the date on which it was mailed to the corporation by the secretary of state.

Fees and charges to be collected by secretary of state.

Section 120. **Fees and charges to be collected by secretary of state.** The secretary of state shall charge and collect in accordance with the provisions of this act:

(a) Fees for filing documents and issuing certificates.

(b) Miscellaneous charges.

(c) License fees.

Fees for filing documents and issuing certificates.

Section 121. **Fees for filing documents and issuing certificates.** The secretary of state shall charge and collect for:

(a) Filing articles of incorporation and issuing a certificate of incorporation, twenty dollars ($20).

(b) Filing articles of amendment and issuing a certificate of amendment, twenty dollars ($20).

(c) Filing restated articles of incorporation, twenty dollars ($20).

HeinOnline -- 1967 vol. II 1013 1967

(d) Filing articles of merger or consolidation and issuing a certificate of merger or consolidation, twenty dollars ($20).

(e) Filing an application to reserve a corporate name, two dollars ($2).

(f) Filing a notice of transfer of a reserved corporate name, two dollars ($2).

(g) Filing a statement of change of address of registered office or change of registered agent, or both, two dollars ($2).

(h) Filing a statement of the establishment of a series of shares, five dollars ($5).

(i) Filing a statement of cancellation of shares, five dollars ($5).

(j) Filing a statement of reduction of stated capital, five dollars ($5).

(k) Filing a statement of intent to dissolve, two dollars ($2).

(l) Filing a statement of revocation of voluntary dissolution proceedings, two dollars ($2).

(m) Filing articles of dissolution, five dollars ($5).

(n) Filing an application of a foreign corporation for a certificate of authority to transact business in this state and issuing a certificate of authority, twenty dollars ($20).

(o) Filing an application of a foreign corporation for an amended certificate of authority to transact business in this state and issuing an amended certificate of authority, twenty dollars ($20).

(p) Filing a copy of an amendment to the articles of incorporation of a foreign corporation holding a certificate of authority to transact business in this state, ten dollars ($10).

(q) Filing a copy of articles of merger of a foreign corporation holding a certificate of authority to transact business in this state, twenty dollars ($20).

HeinOnline -- 1967 vol. II 1014 1967

(r) Filing an application for withdrawal of a foreign corporation and issuing a certificate of withdrawal, five dollars ($5).

(s) Filing an annual report, five dollars ($5).

(t) Filing any other statement or report, except an annual report, of a domestic or foreign corporation, two dollars ($2).

Miscellaneous charges.

Section 122. **Miscellaneous charges.** The secretary of state shall charge and collect:

(a) For furnishing a certified copy of any document, instrument, or paper relating to a corporation, thirty-five cents ($.35) per page and two dollars ($2) for the certificate and affixing the seal thereto.

(b) For furnishing any certificate not mentioned in this or the preceding section, five dollars ($5).

License fees payable by domestic corporations.

Section 123. **License fees payable by domestic corporations.** The secretary of state shall charge and collect from each domestic corporation license fees, based upon the number of shares which it will have authority to issue or the increase in the number of shares which it will have authority to issue, at the time of:

(a) Filing articles of incorporation.

(b) Filing articles of amendment increasing the number of authorized shares; and

(c) Filing articles of merger or consolidation increasing the number of authorized shares which the surviving or new corporation, if a domestic corporation, will have authority to issue above the aggregate number of shares which the constituent domestic corporations and constituent foreign corporations authorized to transact business in this state had authority to issue.

The license fees shall be at the rate of ten cents ($.10) per share up to and including the first one thousand (1,000) authorized shares, eight cents ($.08) per share for each authorized share in excess of one thousand (1,000) shares up to and including twenty-five hundred (2,500) shares, six cents ($.06) per share for each authorized share in excess of twenty-five hundred (2,500) shares up to and including five thousand (5,000) shares, four cents

HeinOnline -- 1967 vol. II 1015 1967

($.04) per share for each authorized share in excess of five thousand (5,000) shares up to and including ten thousand (10,000) shares, and two cents ($.02) per share for each authorized share in excess of ten thousand (10,000) shares. For the sole purpose of computing the license fee

(a) with respect to shares having a par value, each one hundred dollar ($100) unit of the authorized shares shall be counted as one (1) taxable share;

(b) with respect to shares without nominal or par value, such shares shall be deemed equivalent to shares having a par value of one dollar ($1) each; provided, however, that such license fee shall in no event be less than fifty dollars ($50).

The license fees payable on an increase in the number of authorized shares shall be imposed only on the increased number of shares, and the number of previously authorized shares shall be taken into account in determining the rate applicable to the increased number of authorized shares.

License fee payable by foreign corporation.

Section 124. **License fees payable by foreign corporation.** The secretary of state shall charge and collect from each foreign corporation at the time of filing an application for a certificate of authority to transact business in this state the sum of fifty dollars ($50) as an initial license fee.

Thereafter the secretary of state shall fix the license fee for each foreign corporation as follows:

(1) He shall first ascertain the license fee which a newly organized domestic corporation would be required to pay under the preceding section if it had authorized shares having a par value of one hundred dollars ($100) per share, in an amount equal to the stated capital of the reporting foreign corporation shown by its filed annual report;

(2) Said amount shall be multiplied by a fraction, the numerator of which shall be the sum of the value of the property of the corporation located in this state and the gross receipts of the corporation derived from its business transacted within this state, and the denominator of which shall be the sum of the value of all of its property wherever located and the gross receipts of the corporation derived from its business wherever trans-

HeinOnline -- 1967 vol. II 1016 1967

acted. The amounts used in determining the numerator and denominator shall be determined from the corporation's filed annual report;

(3) From the product of such multiplication, there shall be deducted the aggregate amount of license fee theretofore paid by the corporation, and the remainder, if any, shall be the amount of additional fee to be paid by the corporation.

The secretary of state shall enter the amount of any additional license fee in the records of the corporation in his office and shall mail a notice of the amount of such additional license fee to the corporation at its registered office in this state. The additional license fee shall be paid by the corporation to the secretary of state within thirty (30) days after the mailing of the notice. Failure to pay such additional license fee within said thirty-day period shall render such corporation liable to the secretary of state for a penalty equal to ten percent (10%) of the amount of the additional license fee, together with interest, at the rate of one-half of one percent (½ of 1%) per month on the fee plus penalty until paid.

Foreign corporations which entered Montana for the transaction of business prior to the effective date of this act shall be entitled to employ within this state an amount of stated capital equal to the greatest amount employed in the state during the period of their qualification prior to such effective date without the payment of additional fees hereunder.

Penalties imposed upon corporations.

Section 125. **Penalties imposed upon corporations.** Each corporation, domestic or foreign, that has failed to file its annual report within the time required by this act and fails or refuses to file its annual report within thirty (30) days after the secretary of state has mailed to the corporation at its registered office a demand that such report be filed, shall be guilty of a misdemeanor and upon conviction thereof may be fined in any amount not exceeding five hundred dollars ($500).

Penalties imposed upon officers and directors.

Section 126. **Penalties imposed upon officers and directors.** Each officer and director of a corporation, domestic or foreign, who signs any articles, statement, report, application or other document filed with the secretary of state which is known to such officer or director to be false in any material respect, shall be deemed to be

HeinOnline -- 1967 vol. II 1017 1967

guilty of a misdemeanor, and upon conviction thereof may be fined in any amount not exceeding five hundred dollars ($500).

Powers of secretary of state.

Section 127. **Powers of secretary of state.** The secretary of state shall have the power and authority reasonably necessary to enable him to administer this act efficiently and to perform the duties therein imposed upon him.

Secretary of state to notify corporation of expiration of existence.

Section 128. **Secretary of state to notify corporation of expiration of existence.** It shall be the duty of the secretary of state to notify every corporation organized after July 1, 1929, not less than three (3) months, nor more than six (6) months before the date of the expiration of its corporate existence, that its corporate existence is about to expire, which notice shall be given by registered letter addressed to such corporation at its principal place of business, as it appears from the last annual report.

Appeal from secretary of state.

Section 129. **Appeal from secretary of state.** If the secretary of state shall fail to approve any articles of incorporation, amendment, merger, consolidation or dissolution, or any other document required by this act to be approved by the secretary of state before the same shall be filed in his office, he shall, within ten (10) days after the delivery thereof to him, give written notice of his disapproval to the person or corporation, domestic or foreign, delivering the same, specifying the reasons therefor. From such disapproval such person or corporation may appeal to the district court of the county in which the registered office of such corporation is, or is proposed to be, situated, or in the district court of Lewis and Clark County, by filing with the clerk of such court a petition setting forth a copy of the articles or other document sought to be filed and a copy of the written disapproval thereof by the secretary of state; whereupon the matter shall be tried de novo by the court, and the court shall either sustain the action of the secretary of state or direct him to take such action as the court may deem proper.

If the secretary of state shall revoke the certificate of authority to transact business in this state of any foreign corporation, pursuant to the provisions of this act, such foreign corporation may likewise appeal to the district

HeinOnline -- 1967 vol. II 1018 1967

court of the county where the registered office of such corporation in this state is situated, or in the district court of Lewis and Clark County, by filing with the clerk of such court a petition setting forth a copy of its certificate of authority to transact business in this state and a copy of the notice of revocation given by the secretary of state; whereupon the matter shall be tried de novo by the court, and the court shall either sustain the action of the secretary of state or direct him to take such action as the court may deem proper.

Appeals from all final orders and judgments entered by the district court under this section in review of any ruling or decision of the secretary of state may be taken as in other civil actions.

Certificates and certified copies to be received in evidence.

Section 130. **Certificates and certified copies to be received in evidence.** All certificates issued by the secretary of state in accordance with the provisions of this act, and all copies of documents filed in his office in accordance with the provisions of this act when certified by him, shall be taken and received in all courts, public offices, and official bodies as prima facie evidence of the facts therein stated. A certificate by the secretary of state under the great seal of this state, as to the existence or nonexistence of the facts relating to corporations, which would appear from the presence or absence of documents filed in his office, or the compliance or noncompliance with the provisions of this act, shall be taken and received in all courts, public offices, and official bodies as prima facie evidence of the existence or nonexistence of the facts therein stated.

Forms to be prescribed by secretary of state.

Section 131. **Forms to be prescribed by secretary of state.** All reports required by this act to be filed in the office of the secretary of state shall be made in a form which shall be prescribed by the secretary of state.

Greater voting requirements.

Section 132. **Greater voting requirements.** Whenever, with respect to any action to be taken by the shareholders of a corporation, the articles of incorporation require the vote or concurrence of the holders of a greater proportion of the shares, or of any class or series thereof, than required by this act with respect to such action, the provisions of the articles of incorporation shall control.

Waiver of notice.

Section 133. **Waiver of notice.** Whenever any notice is required to be given to any shareholder or director of

HeinOnline -- 1967 vol. II 1019 1967

a corporation under the provisions of this act or under the provisions of the articles of incorporation or bylaws of the corporation, a waiver thereof in writing signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be equivalent to the giving of such notice.

Action by shareholders or directors without a meeting.

Section 134. **Action by shareholders or directors without a meeting.** Any action required by this act to be taken at a meeting of the shareholders or directors of a corporation, or any action which may be taken at a meeting of the shareholders or directors, may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all of the shareholders or directors entitled to vote with respect to the subject matter thereof.

Such consent shall have the same effect as a unanimout vote and may be stated in any articles or document filed with the secretary of state under this act.

Unauthorized assumption of corporate powers.

Section 135. **Unauthorized assumption of corporate powers.** All persons who assume to act as a corporation without authority so to do shall be jointly and severally liable for all debts and liabilities incurred or arising as a result thereof.

One who assumes an obligation to an ostensible corporation, as such, cannot resist the obligation on the ground that there was in fact no such corporation until that fact has been adjudged in a direct proceeding for the purpose.

Application to existing corporations.

Section 136. **Application to existing corporations.** From and after July 1, 1967, all foreign and domestic corporations are governed by the provisions of this act with the following exceptions:

a. All domestic corporations existing before July 1, 1967, are not subject to the provisions of this act until after January 1, 1969, but such corporations may elect to become subject to its provisions by adoption of a resolution of the board of directors and filing a copy thereof with the secretary of state at any time;

b. All foreign corporations duly authorized to conduct affairs in this state before July 1, 1967, are not subject to the provisions of this act until after January 1, 1969, but such corporations may elect to become subject to its

HeinOnline -- 1967 vol. II 1020 1967

provisions by adoption of a resolution of its board of directors and filing a copy thereof with the secretary of state at any time;

c. The existing provisions of title 15 of the Revised Codes of Montana remain in effect until January 1, 1969, as to existing corporations which do not elect to become subject to the provisions of this act, but are inapplicable otherwise. After January 1, 1969, the existing provisions of title 15 that are expressly repealed by this act as to newly formed corporations or existing corporations electing to become subject to the provisions of this act are repealed completely and this act shall be construed as replacing such designated sections of title 15.

Existing corporations for profit, which are organized and existing under the laws of this state at the time this act takes effect and which elect to become subject to its provisions as provided herein shall continue in existence with all the rights and privileges applicable to corporations organized under this act, and from the date of such election, shall have all the rights and privileges and shall be subject to all the limitations, restrictions, liabilities and duties prescribed herein except as provided in this section. After January 1, 1969, all existing corporations for profit shall have all such rights and privileges and be subject to all such limitations, restrictions, liabilities and duties prescribed herein.

Existing corporations whose original or amended articles of incorporation do not deny or limit to the present or future shareholders of any or all classes of stock any preemptive or preferential right to subscribe to any or all additional issues of stock of any or all classes, or bonds, debentures, or other obligations convertible into stock, shall continue to be subject to such pre-emptive or preferential right of their present or future shareholders, unless and until the articles of incorporation are amended to deny or limit such rights.

On or before March 1, 1968, and annually thereafter as provided in section 119 every existing corporation, including foreign corporations qualified to do business in this state at the time this act takes effect, shall file an annual report with the secretary of state setting forth the information prescribed by section 118. The designation of the registered office of the corporation in this

HeinOnline -- 1967 vol. II 1021 1967

state and the address thereof and the designation of its resident agent in this state at such address contained in the first annual report of the corporation shall be in lieu of designating such office and agent in the articles of incorporation of such corporation, and such designation shall continue until changed as provided in section 12.

Any certificates of stock issued by existing corporations after the effective date of this act shall conform to the requirements of section 21.

The provisions of this act are applicable to every corporation unless a special provision is made in relation thereto, inconsistent with some provision of this act, in which case the special provision prevails.

Nothing contained in the Montana Business Corporation Act shall be construed to repeal or to amend the present statutes relating to banks and trust companies, insurance, casualty and surety companies, cooperative associations, industrial loan companies, credit unions, building and savings and loan associations, non-profit corporations and other corporations for which special regulations different from the general private business corporation laws of this state have existed prior to July 1, 1967.

The stock of any corporation organized prior to July 1, 1967, under the laws of this state shall not be assessable for any purpose whatever, except to such extent and in such manner as may be expressly provided by statute; provided, that if such stock is made assessable and the manner of levying the assessment is not provided for, it shall be levied in the manner and form hereinafter prescribed by this act. The stock of any corporation for profit organized under the laws of this state after June 30, 1967, shall not be assessable for any purpose except as expressly provided by statute and except that water companies, water users associations, irrigation companies, canal companies, ditch companies and reservoir companies, whose articles of incorporation provide for the assessment of shares may levy assessments at the times and in the amounts as may be prescribed by its articles of incorporation, or if not so prescribed, then as follows:

Limitation upon amount of assessment.

(1) **Limitation upon amount of assessment.** No one assessment must exceed ten percent (10%) of the amount

HeinOnline -- 1967 vol. II 1022 1967

of the capital stock named in the articles of incorporation, except that if the whole capital stock of a corporation has not been paid up, and the corporation is unable to meet its liabilities or to satisfy the claims of its creditors, the assessment may be for the full amount unpaid upon the capital stock; or, if a less amount is sufficient, then it may be for such a percentage as will raise that amount.

Levy of assessment—unpaid assessment.

(2) **Levy of assessment—unpaid assessment.** No assessment must be levied while any portion of a previous one remains unpaid, unless:

(a) The power of the corporation has been exercised in accordance with the provisions of this section for the purpose of collecting such previous assessment;

(b) The collection of the previous assessment has been enjoined; or,

(c) The assessment falls within the provisions of the preceding section.

Contents of order for assessment.

(3) **Contents of order for assessment.** Every order levying an assessment must specify the amount thereof, when, to whom, and where payable; fix a day, subsequent to the full term of publication of the assessment notice, on which the unpaid assessment shall be delinquent, not less than thirty (30) nor more than sixty (60) days from the time of making the order levying the assessment, and a day for the sale of delinquent stock, not less than fifteen (15) nor more than sixty (60) days from the day the stock is declared delinquent.

Notice of assessment—form.

(4) **Notice of assessment—form.** Upon the making of the order the secretary shall cause to be published a notice thereof in the following form: (Name of corporation in full. Location of the principal place of business.) Notice is hereby given, that at a meeting of the directors, held on the (date), an assessment of (amount) per share was levied upon the capital stock of the corporation, payable (when, to whom, and where). Any stock upon which the assessment shall remain unpaid on the (day fixed) will be delinquent and advertised for sale at public auction, and unless payment is made before, will be sold on the (day appointed), to pay the delinquent assessment, together with costs of advertising and expenses of sale.

(Signature of secretary, with location of office.)

HeinOnline -- 1967 vol. II 1023 1967

Publication and service of notice.

(5) **Publication and service of notice.** The notice must be personally served upon each stockholder, or, in lieu of personal service, must be sent within ten (10) days after the assessment through the mail, addressed to each stockholder at his place of residence, if known, and if not known, at the place where the principal office of the corporation is situated, and be published once a week, for four (4) successive weeks, in some newspaper of general circulation and devoted to the publication of general news, at the place designated in the articles of incorporation as the principal place of business, and also in some newspaper published in the county in which the works of the corporation are situated, if a paper be published therein. If the works of the corporation are not within a state or territory of the United States, publication in a paper of the place where they are situated is not necessary. If there be no newspaper published at the place designated as the principal place of business of the corporation, then the publication must be made in some other newspaper of the county, if there be one, and if there be none, then in a newspaper published in an adjoining county.

Delinquent notice—form.

(6) **Delinquent notice—form.** If any portion of the assessment mentioned in the notice remains unpaid on the days specified therein for declaring the stock delinquent, the secretary, unless otherwise ordered by the board of directors, shall cause to be published in the same papers in which the notice hereinbefore provided for shall have been published, a notice substantially in the following form: (Name in full. Location of principal place of business.) Notice. There is delinquent upon the following subscribed stock, on account of assessment levied on the (date), (and assessments levied previous thereto, if any), the several amounts set opposite the names of respective shareholders as follows: (Names, number of certificate, number of shares, amounts.) And in accordance with law (and an order of the board of directors, made on the (date), if such order shall have been made), so many shares of each parcel of stock as may be necessary, will be sold at the (particular place), on the (date), at (the hour) of such day, to pay delinquent assessments thereon, together with costs of advertising and expenses of sale.

(Name of secretary, with location of office.)

HeinOnline -- 1967 vol. II 1024 1967

Contents of notice.

(7) **Contents of notice.** The notice must specify every certificate of stock, the number of shares it represents, and the amount due thereon, except where certificates may not have been issued to parties entitled thereto, in which case the number of shares and amount due thereon, together with the fact that the certificates for such shares have not been issued, must be stated.

How published.

(8) **How published.** The notice, when published in a daily paper, must be published for ten (10) days, excluding Sundays and holidays, previous to the day of sale. When published in a weekly paper, it must be published in each for two (2) weeks previous to the day of sale. The first publication of all delinquent sales must be at least fifteen (15) days prior to the day of sale.

Jurisdiction acquired by publication of notice.

(9) **Jurisdiction acquired by publication of notice.** By the publication of the notice, the corporation acquires jurisdiction to sell and convey a perfect title to all of the stock described in the notice of sale upon which any portion of the assessment or costs of advertising remains unpaid at the hour appointed for the sale, but must sell no more of such stock than is necessary to pay the assessment due and costs of sale.

Sale to be at public auction.

(10) **Sale to be at public auction.** On the day, at the place, and at the time appointed in the notice of sale, the secretary must, unless otherwise ordered by the board of directors, sell or cause to be sold at public auction, to the highest bidder for cash, so many shares of each parcel of the described stock as may be necessary to pay the assessment and charges thereon, according to the terms of sale; if payment is made before the time fixed for sale, the party paying is only required to pay the actual cost of advertising, in addition to the assessment.

Highest bidder to be the purchaser.

(11) **Highest bidder to be the purchaser.** The person offering at such sale to pay the assessment and costs for the smallest number of shares or fraction of a share is the highest bidder, and the stock purchased must be transferred to him on the stock books of the corporation, on payment of the assessment and costs.

Corporation may purchase in default of bidder.

(12) **Corporation may purchase in default of bidder.** If, at the sale of stock, no bidder offers the amount of the assessments and costs and charges due, the same may be bid in and purchased by the corporation through the president, secretary, or any director thereof, at the

HeinOnline -- 1967 vol. II 1025 1967

amount of the assessments, costs, and charges due; and the amount of the assessments, costs, and charges must be credited as paid in full on the books of the corporation, and entry of the transfer of the stock to the corporation must be made on the books thereof. While the stock remains the property of the corporation it is not assessable, nor must any dividends be declared thereon; but all assessments and dividends must be apportioned upon the stock held by the stockholders of the corporation.

Disposition of stock purchased by corporation.

(13) **Disposition of stock purchased by corporation.** All purchases of its own stock made by any corporation vest the legal title to the same in the corporation, and the stock so purchased is held subject to the control of the stockholders, who may make such disposition of the same as they deem fit, in accordance with the bylaws of the corporation or vote of a majority of all the remaining shares. Whenever any portion of the capital stock of a corporation is held by the corporation by purchase, a majority of the remaining shares is a majority of the stock for all purposes of election or voting on any question at a stockholders' meeting.

Extension of time of delinquent sale.

(14) **Extension of time of delinquent sale.** The dates fixed in any notice of assessment or notice of delinquent sale, published according to the provisions hereof, may be extended from time to time for not more than thirty (30) days, by order of the directors entered on the records of the corporation; but no order extending the time for the performance of any act specified in any notice is effectual unless notice of such extension or postponement is appended to and published with the notice to which the order relates.

Assessment shall not be invalidated.

(15) **Assessment shall not be invalidated.** No assessment is invalidated by a failure to make publication of the notices hereinbefore provided for, nor by the nonperformance of any act required in order to enforce the payment of the same, but in case of any substantial error or omission in the course of proceedings for collection, all previous proceedings, except the levying of the assessment, are void, and publication must begin anew.

Action for recovery of stock—limitation thereon.

(16) **Action for recovery of stock—limitation thereon.** No action must be sustained to recover stock sold for delinquent assessments, upon the ground of irregularity or defect of the notice of sale, or defect or irregularity in the

HeinOnline -- 1967 vol. II 1026 1967

sale, unless the party seeking to maintain such action first pays or tenders to the corporation, or the party holding the stock sold, the sum for which the same was sold, together with all subsequent assessments which may have been paid thereon and interest on such sums from the time they were paid; and no such action must be sustained unless the same is commenced by the filing of a complaint and the issuing of a summons thereon within six (6) months after such sale was made.

Proofs of publication and sale.

(17) **Proofs of publication and sale.** The publication of notice required by this section must be proved by the affidavit of the printer, foreman, or principal clerk of the newspaper in which the same was published; and the affidavit of the secretary or auctioneer is prima facie evidence of the facts therein stated. Certificates, signed by the secretary, and under the seal of the corporation, are prima facie evidence of the contents thereof.

Waiver of sale—action to recover assessment.

(18) **Waiver of sale—action to recover assessment.** On the day specified for declaring the stock delinquent, or at any time subsequent thereto and before the sale of the delinquent stock, the board of directors may elect to waive further proceedings under this chapter for the collection of delinquent assessments, or any part or portion thereof, and may elect to proceed by action to recover the amount of the assessment and the costs and expenses already incurred, or any part or portion thereof.

Application to foreign and interstate commerce.

Section 137. **Application to foreign and interstate commerce.** The provisions of this act shall apply to commerce with foreign nations and among the several states only in so far as the same may be permitted under the provisions of the constitution of the United States.

Reservation of power.

Section 138. **Reservation of power.** The legislative assembly shall at all times have power to prescribe such regulations, provisions and limitations as it may deem advisable, which regulations, provisions and limitations shall be binding upon any and all corporations subject to the provisions of this act, and the legislative assembly shall have power to amend, repeal or modify this act at pleasure.

Effect of repeal of prior acts.

Section 139. **Effect of repeal of prior acts.** The repeal of a prior act by this act shall not affect any right accrued or established, or any liability or penalty incurred,

HeinOnline -- 1967 vol. II 1027 1967

under the provisions of such act, prior to the repeal thereof.

Effect of invalidity of part of this act.

Section 140. **Effect of invalidity of part of this act.** If a court of competent jurisdiction shall adjudge to be invalid or unconstitutional any clause, sentence, paragraph, section or part of this act, such judgment or decree shall not affect, impair, invalidate or nullify the remainder of this act, but the effect thereof shall be confined to the clause, sentence, paragraph, section or part of this act so adjudged to be invalid or unconstitutional.

Amending clause.

Section 141. Section 25-102, R.C.M. 1947 is amended to read as follows:

Fees of secretary of state.

"25-102. **Fees of secretary of state.** The secretary of state, for services performed in his office, must charge and collect the following fees:

1. For each copy of any law, resolution or record or other document or paper on file in his office, *except corporate papers,* forty cents *($.40)* per folio, or, if the copy is made by any process of reproduction by photographic, photostatic or similar process, the fee shall be seventy-five *($.75)* cents per page or fraction thereof.

2. For affixing certificate and seal, two dollars *($2)*.

3. For receiving and recording each official bond, ten dollars ($10).

4. For each commission or other document, signed by the governor, and attested by the secretary of state (pardon and military commissions excepted), five dollars ($5).

5. For filing each trade mark, five dollars ($5); for filing and recording each assignment of a trade mark, five dollars ($5); and for issuing each certificate of record, five dollars ($5).

6. For filing and recording miscellaneous papers, records, or other documents, five dollars ($5).

7. For filing and recording any other paper not otherwise herein provided for, five dollars ($5). When a copy of any law, resolution or record or other document or paper on file in the office of the secretary of state is presented for comparison and certification, ten cents ($.10) per folio must be charged and collected for proofreading

HeinOnline -- 1967 vol. II 1028 1967

the same. That no member of the legislative assembly, or state or county officer, can be charged for any search relative to matters appertaining to the duties of his office; nor must he be charged any fee for a certified copy of any law or resolution passed by the legislative assembly relative to his official duties. Fees must be collected in advance, and when collected by the secretary of state, must be paid to the state treasurer at the end of each quarter, as provided in the constitution.

Amending clause.

Section 142. Section 93-4401, R.C.M. 1947, is amended to read as follows:

Appointment of receiver.

"93-4401. **Appointment of receiver.** A receiver may be appointed by the court in which an action is pending, or by the judge thereof:

1. In an action by a vendor to vacate a fraudulent purchase of property, or by a creditor to subject any property or fund to his claim, or between partners or others jointly owning or interested in any property or fund, on the application of the plaintiff, or of any party whose right to or interest in the property or fund, or the proceeds, thereof, is probable, and where it is shown that the property or fund is in danger of being lost, removed, or materially injured;

2. In an action by a mortgagee for the foreclosure of his mortgage and sale of the mortgaged property, where it appears that the mortgaged property is in danger of being lost, removed, or materially injured, or that the condition of the mortgage has not been performed, and that the property is probably insufficient to discharge the mortgage debt;

3. After judgment, to carry the judgment into effect;

4. After judgment, to dispose of the property according to the judgment, or to preserve it during the pendency of an appeal, or in proceedings in aid of execution, when an execution has been returned unsatisfied, or when the judgment debtor refuses to apply his property in satisfaction of the judgment;

5. In all other cases where receivers have heretofore been appointed by the usages of courts of equity.

Repealing clause.

Section 143. **Repeal of prior acts.** Sections 15-101, 15-102, 15-103, 15-104, 15-105, 15-106, 15-107, 15-108, 15-

HeinOnline -- 1967 vol. II 1029 1967

109, 15-110, 15-111, 15-112, 15-113, 15-114, 15-115, 15-116, 15-117, 15-118, 15-121, 15-201, 15-202, 15-203, 15-204, 15-205, 15-206, 15-207, 15-208, 15-209, 15-210, 15-211, 15-212, 15-213, 15-214, 15-215, 15-216, 15-217, 15-218, 15-219, 15-220, 15-221, 15-222, 15-223, 15-224, 15-225, 15-301, 15-302, 15-303, 15-401, 15-402, 15-403, 15-404, 15-405, 15-406, 15-407, 15-408, 15-409, 15,410, 15-411, 15-412, 15-501, 15-502, 15-503, 15-504, 15-505, 15-506, 15-507, 15-508, 15-509, 15-601, 15-602, 15-604, 15-606, 15-607, 1-608, 15-609, 15-610, 15-611, 15-612, 15-613, 15-614, 15-615, 15-616, 15-617, 15-618, 15-619, 15-620, 15-621, 15-622, 15-623, 15-624, 15-625, 15-626, 15-627, 15-701, 15-702, 15-703, 15-704, 15,705, 15-706, 15-707, 15-708, 15-709, 15-710, 15-711, 15-712, 15-713, 15,714, 15-715, 15-716, 15-717, 15-718, 15-719, 15-720, 15-721, 15-801, 15-802, 15-803, 15-804, 15-805, 15-806, 15-807, 15,808, 15-809, 15-810, 15-811, 15-901, 15-902, 15-903, 15-904, 15-905, 15-906 15-907, 15-908, 15-909, 15-910, 15-911, 15-912, 15-913, 15-1001, 15-1002, 15-1101, 15-1102, 15-1103, 15-1104, 15-1105, 15-1106, 15-1107, 15-1108, 15-1109, 15-1110, 15-1111, 15-1112, 15-1113, 15-1114, 15-1115, 15-1116, 15-1117, 15-1118, 15-1119, 15-1120, 15-1121, 15-1122, 15-1123, 15-1124, 15-1125, 15-1126, 15-1127, 15-1128, 15-1129, 15-1130, 15-1131, 15-1201, 15-1202, 15-1601, 15-1602, 15-1603, 15-1701, 15-1702, 15-1703, 15-1704, 15-1705, 15-1706, 15-1707, 15-1708, 15-1709, 15-1710, 15-1711, 15-1712, 15-1713, 15-1801, 15-1802, 15-1803, 15-1804, 15-1805, 15-1806, 15-1807, 15-1901, 15-1902, 15-1903, 15-1904, 15-1905, 15-1906, 15-1907, 15-1908, 25-103, 25-104, 25-105, 25-106, 25-107, 25-108, 25-109, and 93-4342, R.C.M. 1947, are repealed.

Effective December 31, 1968.

Section 144. This act shall be effective on December 31, 1968.

Approved: March 2, 1967.

CHAPTER 301

An Act for the Codification and General Revision of the Laws of Montana Relating to Religious Corporations Sole; and Repealing Sections 15-1501, 15-1502, 15-1503, 15-1504, 15-1505, 15-1506, 15-1507, R.C.M. 1947; and Providing an Effective Date.

It is the intent of the legislative assembly that this bill be codified as one chapter of title 15, Revised Codes of Montana, 1947.

HeinOnline -- 1967 vol. II 1030 1967

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. **Short title.** This act shall be known and may be cited as the "Montana Religious Corporation Sole Act." "Montana Religious Corporation Sole Act."

Section 2. **Applicability.** The provisions of this act shall apply to corporations sole now existing or formed in accordance herewith and the Montana Nonprofit Corporation Act shall apply thereto only when not inconsistent with the provisions of this chapter; foreign corporations sole will likewise be governed by the applicable provisions of the Montana Nonprofit Corporation Act when not inconsistent with the provisions of this chapter. Applicability.

From and after January 1, 1969, this act shall apply to all domestic corporations and to all foreign corporations conducting or seeking to conduct affairs within this state. Those domestic corporations existing at the time that this act becomes effective which have not meanwhile adopted this act, by complying with the provisions of this act, shall, on January 1, 1969, be deemed to have elected to adopt this act by not voluntarily dissolving.

Section 3. **When corporation sole may be created.** Whenever the rules, regulations or discipline of any religious denomination, society, or church permit or require the estate, property, temporalities and business thereof to be held in the name of or managed by a bishop, chief priest, or presiding elder, it shall be lawful for such bishop, chief priest or presiding elder of such religious denomination, society, or church to become a corporation sole in the manner herein prescribed. When corporation sole may be created.

Section 4. **Articles of incorporation.** The articles of incorporation shall set forth: Articles of incorporation to set forth.

(a) The name of the corporation.

(b) The period of duration, which may be perpetual.

(c) The name of the religious denomination, society or church creating the corporation sole.

(d) The name of the bishop, chief priest or presiding elder whose office is incorporated under this act, together with a designation of the boundaries of the territory over which he presides, or over which his jurisdiction extends, and the facts authorizing such incorporation.

HeinOnline -- 1967 vol. II 1031 1967

(e) The manner in which any vacancy occurring in the incumbency of such bishop, chief priest or presiding elder, as required by the rules, regulations or discipline of such religious denomination, society, or church, shall be filled.

(f) Any provisions, not inconsistent with law, which the incorporator elects to set forth in the articles of incorporation for the regulation of the internal affairs of the corporation, including any provisions for distribution of assets on dissolution or final liquidation.

(g) The address of its initial registered office, and the name of its initial registered agent at such address.

(h) The name and address of the incorporator.

It shall not be necessary to set forth in the articles of incorporation any of the corporate powers enumerated in this act.

Verification.

The articles shall be verified by affidavit of the incorporator and he shall also file the original or a copy or translation of his commission, certificate, or letters of appointment, as such bishop, chief priest, or presiding elder, duly attested, and his affidavit that the same is a true copy or translation shall be deemed as sufficient attestation thereof.

Effect of issuance of certificate of incorporation.

Section 5. **Effect of issuance of certificate of incorporation.** Upon filing the articles of incorporation in the office of the secretary of state with proof of appointment or election of such bishop, chief priest or presiding elder the secretary of state must issue to the corporation, over the great seal of the state, a certificate of incorporation, and upon the issuance of this certificate, the corporate existence shall begin, and such certificate of incorporation shall be conclusive evidence that all conditions precedent required to be performed by the incorporator have been complied with and that the corporation has been incorporated under this act, except as against the state in a proceeding to cancel or revoke the certificate of incorporation or for involuntary dissolution of the corporation.

Powers of corporation sole.

Section 6. **Powers of corporation sole.** Every corporation sole, organized under the provisions of this act, for the purpose of the trust hereinafter mentioned, shall have power:

HeinOnline -- 1967 vol. II 1032 1967

(a) To continue to exist perpetually by its corporate name unless a limited period of duration is stated in its articles of incorporation.

(b) To sue and be sued, complain and defend, in its corporate name.

(c) To have a corporate seal which may be altered at pleasure, and to use the same by causing it, or a facsimile thereof, to be impressed or affixed or in any other manner reproduced.

(d) To purchase, take, receive, lease, take by gift, devise or bequest, or otherwise acquire, own, hold, improve, use and otherwise deal in and with real or personal property, or any interest therein, wherever situated; provided, that all such property shall be in trust for the use, purpose and benefit of such religious denomination, society or church, for which and in whose behalf such corporation sole is organized.

(e) To sell, convey, mortgage, pledge, lease, exchange, transfer and otherwise dispose of all or any part of its property and assets.

(f) To lend money to its employees other than its officers and otherwise assist its employees and officers.

(g) To purchase, take, receive, subscribe for, or otherwise acquire, own, hold, vote, use, employ, sell, mortgage, lend, pledge, or otherwise dispose of, and otherwise use and deal in and with, shares or other interests in, or obligations of, other domestic or foreign corporations, whether for profit or not for profit, associations, partnerships or individuals, or direct or indirect obligations of the United States, or of any other government, state, territory, governmental district or municipality or of any instrumentality thereof.

(h) To make contracts and incur liabilities, borrow money at such rates of interest as the corporation may determine, issue its notes, bonds, and other obligations, and secure any of its obligations by mortgage or pledge of all or any of its property, franchises and income.

(i) To lend money for its corporate purposes, invest and reinvest its funds, and take and hold real and personal property as security for the payment of funds so loaned or invested.

HeinOnline -- 1967 vol. II 1033 1967

(j) To conduct its affairs, carry on its operations, and have offices and exercise the powers granted by this act in any state, territory, district, or possession of the United States, or in any foreign country.

(k) To elect or appoint officers and agents of the corporation, including attorneys-in-fact, and to define their duties and fix their compensation.

(l) To make and alter bylaws, not inconsistent with its articles of incorporation or with the laws of this state, for the administration and regulation of the affairs of the corporation.

(m) Unless otherwise provided in the articles of incorporation, to make donations for the public welfare or for charitable, religious, scientific or educational purposes.

(n) To indemnify any officer or agent, or any person who may have served at its request as an officer or agent or as a director or officer of another corporation in which it owns shares of capital stock or of which it is a creditor, against claims, liabilities, expenses and costs necessarily incurred by him in connection with the defense, compromise or settlement of any action, suit or proceeding, civil or criminal, in which he is made a party by reason of being or having been such director or officer, except in relation to matters as to which he shall be adjudged in such action, suit or proceeding to be liable for negligence or misconduct in the performance of duty to the corporation; and to make any other indemnification that shall be authorized by the articles of incorporation or by any bylaw or resolution promulgated by the incorporator or his successor.

(o) To pay pensions and retirement benefits and establish pension plans, pension trusts, insurance plans, and incentive plans for all or any of its officers and employees.

(p) To cease its corporate activities and surrender its corporate franchise.

(q) To have and exercise all powers necessary or convenient to effect any or all of the purposes for which the corporation is organized.

HeinOnline -- 1967 vol. II 1034 1967

Succession.

Section 7. **Succession.** In the event of the death or resignation from office of any bishop, chief priest or presiding elder or of his transfer or removal therefrom by the person or body having the authority to remove him, his successor in office shall succeed to the powers, rights and obligations of the office and shall become vested with the title to the property with like power and authority over the same, and subject to all the legal liabilities and obligations with reference thereto. Succession shall be effected when the successor shall file in the office of the secretary of state the original, or a copy or translation of his commission, certificate or letters of appointment as such bishop, chief priest or presiding elder, duly attested and his affidavit that the same is a true copy or translation shall be deemed sufficient attestation thereof.

Board of advisers or consultors—interim powers.

Section 8. **Board of advisors or consultors—interim powers.** The bishop, chief priest, or presiding elder of the corporation sole created hereby, may appoint a board of advisors or consultors consisting of at least four (4) but not more than six (6) persons of legal age and otherwise qualified according to the rules, regulations or discipline of the denomination, society or church, which board, in addition to its advisory function, shall exercise the powers of the corporatoin upon the death, resignation, transfer, removal or deprivation of office of the bishop, chief priest or presiding elder; and which shall elect an administrator to which it may delegate the executive and administrative functions of the corporation during the interim and until the successor bishop, chief priest or presiding elder is appointed, elected or qualified, according to the rules, regulations or discipline of the denomination, society or church.

Annual report.

Section 9. **Annual report.** Each corporation, subject to the provisions of this chapter, shall file within the time and in the manner prescribed by the Montana Nonprofit Corporation Act, an annual report setting forth:

(1) The name of the corporation and the name of the present incumbent chief corporate officer.

(2) The address of the registered office of the corporation in this state and the name of its registered agent in this state at such address.

(3) The names and respective addresses of the present members of the board of advisors or consultors of the corporation.

HeinOnline -- 1967 vol. II 1035 1967

(4) The report shall be executed by the chief corporate officer or by an attorney-in-fact acting under a power of attorney filed with the secretary of state by such chief corporate officer.

Amendment of articles of incorporation.

Section 10. **Amendment of articles of incorporation.** Whenever any bishop, chief priest, or presiding elder shall have filed, in the office of the secretary of state, articles of incorporation, under the provisions of an act entitled "An act authorizing and regulating the incorporation of sole corporations and defining their powers," approved February 27, 1899, or amendments thereto, or under this act, such corporation sole may amend its articles of incorporation, from time to time, in any and as many respects as may be desired, so long as its articles of incorporation as amended contain only such provisions as are lawful under this act; and such articles of amendment shall be promulgated by the incorporator or his successor by setting forth a statement of the facts authorizing such amendment and the date upon which said amendment was promulgated and his affidavit that the same is a true copy or translation thereof shall be deemed a sufficient attestation thereof.

Unauthorized assumption of corporate powers.

Section 11. **Unauthorized assumption of corporate powers.** All persons who assume to act as a corporation hereunder without authority so to do shall be jointly and severally liable for all debts and liabilities incurred or arising as the result thereof.

Effect of repeal of prior acts.

Section 12. **Effect of repeal of prior acts.** The repeal of a prior act by this act shall not affect any right accrued or established, or any liability or penalty incurred, under the provisions of such act, prior to the repeal thereof.

Severability act.

Section 13. **Effect of invalidity of part of this act.** If a court of competent jurisdiction shall adjudge to be invalid or unconstitutional any clause, sentence, paragraph, section or part of this act, such judgment or decree shall not affect, impair, invalidate or nullify the remainder of this act, but the effect thereof shall be confined to the clause, sentence, paragraph, section or part of this act so adjudged to be invalid or unconstitutional.

Repealing clause.

Section 14. **Repeal of prior acts.** Sections 15-1501, 15-1502, 15-1503, 15-1504, 15-1505, 15-1506, 15-1507, Re-

HeinOnline -- 1967 vol. II 1036 1967

vised Codes of Montana, 1947, and all other acts or parts of acts in conflict herewith are hereby repealed.

Section 15. This act shall be effective on December 31, 1968.

Approved: March 2, 1967.

Effective December 31, 1968.

CHAPTER 302

An Act Providing for the Regulation and Licensing of the Occupation of Massage; Creating a Board, Providing Qualifications, Powers, Duties, and Compensation; Providing for Examination and Licensing, Disposition of Receipts and Disbursements, and a Penalty for Violation, and Other Requirements.

Be it enacted by the Legislative Assembly of the State of Montana:

Regulation of occupation of massage.

Section 1. **Purpose of act.** It is hereby declared, as a matter of legislative policy in the state of Montana, that the occupation of masseur and masseuse should be regulated and licensed for the protection of the interest, health, and welfare of the people of Montana; that it is necessary to authorize and provide authority to a state board to properly protect the patron public against improper, unauthorized and unqualified masseurs and masseuses and to provide standards of sanitation and practice.

Definitions.

Section 2. **Definitions.**

"Masseur."

a. The term masseur shall include all persons engaged in the occupation of massage and the masculine gender includes the feminine "masseuse".

"Massage."

b. Massage shall mean the trained ability of body massage by hands for the purpose of body massage, the use of oil rubs, salt glows, hot and cold packs, tub, shower or cabinet baths; which includes the application to the patron by the operator's hands by variations of touch, stroking, friction, kneading, vibration, percussion, and gymnastics.

"Massage establishment."

c. Massage establishment as used in this act shall mean any place wherein all or any or more of the above defined procedures and methods are administered or used.

"Board."

d. The term board as used in this act shall mean the Montana board of massage examiners.

HeinOnline -- 1967 vol. II 1037 1967

State board of massage examiners —qualifications and appointment.

Section 3. **State board of massage examiners—qualifications and appointment.** There is hereby created and established a board to be known as the state board of massage examiners, and said board shall be composed of three (3) practicing masseurs of integrity and ability, who shall be residents of the state of Montana, and who shall have been engaged in the occupation of massage continuously in the state of Montana for a period of at least one (1) year. The governor of the state of Montana shall appoint three (3) masseurs, who shall possess the necessary qualifications, to constitute the members of said board, the term of office of one (1) to expire in one (1) year, one (1) in two (2) years, and one (1) in three (3) years from the date of appointment. Annually thereafter, the governor shall appoint one (1) licensed masseur engaged in such occupation and possessed of the qualifications herein set forth, to serve for a period of three (3) years, and shall fill all vacancies in said board caused by death or otherwise as soon as practicable.

Organization of board—meetings—powers and duties.

Section 4. **Organization of board—meetings—powers and duties.** The board of massage examiners shall convene within thirty (30) days after their appointment and elect, and thereafter annually elect, a president, a vice-president, and a secretary-treasurer from their membership.

The board shall hold a regular meeting on the 2nd Friday of January in each year, at the city of Helena, Montana, and shall hold special meetings at such times and places as the board, or a majority of the membership thereof, may designate; provided, that not more than four (4) meetings shall be held in any one (1) year. A majority of the board shall constitute a quorum.

The board shall have authority to administer oaths, take affidavits, summon witnesses, and take testimony as to matters coming within the scope of the board. It shall adopt a seal, which shall be affixed to all licenses issued by them, and shall from time to time adopt such rules and regulations as they deem proper and necessary for the performance of their duties, and they shall adopt a schedule of minimum educational requirements, not inconsistent with the provisions of this law, which shall be without prejudice, partiality, or discrimination as to the different schools of massage training. The secretary of said board

HeinOnline -- 1967 vol. II 1038 1967

shall keep a record of the proceedings of the board, which shall at all times be open to public inspection.

A license to engage as a masseur within this state shall be issued to the individual members of said board at the first meeting of said board upon payment of the regular fee as provided for in this act.

Practicing without a license—license without examination.

Section 5. **Practicing without a license—license without examination.** It shall be unlawful for any person to engage in the occupation of massage in this state without first obtaining a license as provided in this act. All persons engaged in the occupation of massage within this state for three (3) months prior to the passage of this law who have completed a course in massage and shall accompany said application with satisfactory evidence of good character and reputation may be licensed without further examination.

When application for examination for license is regularly filed with the board, as provided in this act, the board may issue to the applicant a temporary permit to engage in the occupation of massage, which certificate shall be good until the next meeting of the board.

Application and fees for license.

Section 6. **Application and fees for license.** Any person wishing to engage in the occupation of a masseur in this state after August 1, 1967, except those licensed under section 5 of this act, shall make application to said board of massage examiners through the secretary-treasurer thereof, and upon such form and such manner as may be prescribed and directed by the board, at least fifteen (15) days prior to any meeting of said board. Each applicant shall hold a diploma or credentials issued by a recognized, approved school of massage or like institution, certifying not less than one thousand (1,000) hours of study satisfactory to said school. Application shall be made in writing and shall be sworn to by some officer authorized to administer oaths, and shall recite the history of applicant's educational qualifications, how long he has studied massage, from what school he holds a certificate, and the length of time he has engaged in the occupation of massage, accompanying the same with proof thereof by a diploma or certificate and shall accompany said application with satisfactory evidence of good character and reputation.

HeinOnline -- 1967 vol. II 1039 1967

There shall be paid to the secretary-treasurer of the state board of massage examiners, by each applicant for a license, a fee of thirty-five dollars ($35) which shall accompany the application. Any applicant failing to pass said requirements shall be entitled within six (6) months to a reexamination upon payment of an additional fee of ten dollars ($10) but upon a third failure may not reapply.

Examinations.

Section 7. **Examinations.** Examinations for licenses to engage in the occupation of massage shall be made by the board according to the method deemed by it to be the most practicable and expeditious to test the applicant's qualifications.

All examinations shall be made in writing, and in addition each applicant shall pass a reasonable demonstrative and oral examination, conducted by and under the supervision and direction of said board. Minimum requirements shall be a general average in said examination of seventy-five percent (75%) in all subjects involved and not less than fifty percent (50%) in any one (1) subject. In addition to such subjects as may be designated by the board, the examination shall include principles of sanitation and hygiene.

Refusal or revocation of license.

Section 8. **Refusal or revocation of license.** The state board of massage examiners may, after due hearing, refuse to grant, revoke or renew any license provided for in this act to a person, otherwise qualified, who obtained said license by fraudulent representation, for incompetency in practice, for use of untruthful or improbable statements to patrons or in his advertisements, for habitual intoxication or for unprofessional and immoral conduct, but said board may reissue a license after a lapse of not less than six (6) months, if in its judgment such act or acts and/or conditions of disqualification shall have been remedied. It shall be a violation of this act for any person engaged in the occupation of a masseur to advertise or assert as a licensee under this act that they diagnose or treat any disease, injury or illness.

Renewal of license.

Section 9. **Renewal of license.** Each license shall expire on the last day of December in each year and shall be renewed then or thereafter, by the board, upon payment of a renewal fee of not less than ten dollars ($10)

HeinOnline -- 1967 vol. II 1040 1967

or more than twenty-five dollars ($25) as set by the state board of massage examiners.

Disposition of fees—receipts and disbursements.

Section 10. **Disposition of fees—receipts and disbursements.** All examination and renewal fees received by the state board of massage examiners under this act shall be paid to the secretary-treasurer of said board, who shall at the end of each month deposit the same with the state treasurer, and the state treasurer shall place all money so received in an account in the earmarked revenue fund to the credit of the state board of massage examiners and shall pay the same out in warrants drawn by the state auditor, upon approved vouchers issued and signed by the president and secretary-treasurer of said board. All money so received and placed in said fund may be used by the state board of massage examiners in defraying their expenses in carrying out the provisions of this act.

The secretary-treasurer shall keep a true and accurate account of all funds received and all vouchers issued by the board; and on the first day of December of each year, shall file with the governor of the state a report of all receipts and disbursements and the proceedings of said board for the fiscal year.

The members of said board shall receive a per diem of fifteen dollars ($15) for each day during which they shall be actually engaged in the discharge of their duties, and mileage at the rate of ten cents (10¢) per mile for each mile necessarily travelled in going to and from any meeting of said board.

Per diem and mileage and all other expenses necessarily connected with said board shall be paid only out of the earmarked revenue fund of the state board of massage examiners.

Bond of treasurer—dismissal of members of the board.

Section 11. **Bond of treasurer—dismissal of members of the board.** The treasurer of said board shall give bond in such sum and with such sureties as the board may deem proper. Upon sufficient proof to the governor of the inability or misconduct of a member of the board, said member shall be dismissed, and the governor shall appoint as his successor some licensed masseur of this state.

Admission to practice of persons from other states.

Section 12. **Admission to practice of persons from other states.** Persons licensed to engage in the occupation of a masseur under the laws of any other state having equal requirements to this act, may, in the discretion of

HeinOnline -- 1967 vol. II 1041 1967

the board, be issued a license to engage in the occupation of a masseur in this state without examination, upon payment of the fee of thirty-five dollars ($35) as herein provided.

Violation and penalty.

Section 13. **Penalty for violation of this act.** Any person who shall engage in the practice of body massage as a masseur, or shall accept compensation for performing body massage as a masseur, without first having complied with the provisions of this act, shall be deemed guilty of a misdeameanor and upon conviction shall be punished by a fine of not less than two hundred dollars ($200) or more than five hundred dollars ($500), or by imprisonment in the county jail for not less than thirty (30) days or more than six (6) months, or by both such fine and imprisonment. The district court shall have jurisdicition of all prosecutions brought hereunder.

Exemptions.

Section 14. **Exemptions.** The following classes of persons are exempt from this act:

1. Persons authorized by the laws of this state to practice medicine, surgery, osteopathy, chiropractic or chiropody.

2. Persons who are registered or licensed under the laws of this state as nurses, practical nurses, physical therapists, barbers or cosmetologists.

3. Schools, Y.M.C.A. clubs, athletic clubs, and similar organizations who furnish massage to their players and members.

Approved: March 2, 1967.

CHAPTER 303

An Act Amending Section 93-4304, R.C.M. 1947, As Amended, to Provide that in Actions Involving Attachment in Which the Plaintiff's Claim Shall Exceed One Thousand Dollars ($1,000) That the Maximum Undertaking Required Shall Not Exceed Twenty Thousand Dollars ($20,000).

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 93-4304, R.C.M. 1947, as amended is hereby amended to read as follows:

HeinOnline -- 1967 vol. II 1042 1967

"93-4304. **Undertaking.** Before issuing the writ, the clerk must require a written undertaking on the part of the plaintiff, with two *(2)* or more sufficient sureties, to be approved by the clerk, in a sum not less than double the amount claimed by the plaintiff, if such amount be one thousand dollars ($1,000) or under, or, in case the amount so claimed by plaintiff shall exceed one thousand dollars ($1,000), then in a sum equal to such amount, but in no case shall an undertaking be required exceeding in amount the sum of *twenty thousand dollars ($20,000)*. The condition of such undertaking shall be to the effect that if the defendant recover judgment, or if the court shall finally decide that the plaintiff was not entitled to an attachment, the plaintiff will pay all costs that may be awarded to the defendant, and all damages he may sustain by reason of the issuing out of the attachment, not exceeding the sum specified in the undertaking. At any time within thirty (30) days after the service of summons, the defendant may except to the sufficiency of the sureties. If he fails to do so, he is deemed to have waived all objections to them. When excepted to, the plaintiff's sureties, upon notice to the defendant of not less than two (2) days nor more than ten (10) days, must justify before a judge of the district court, or before the clerk thereof, and upon failure to justify, or if others in their place fail to justify, at the time and place appointed, the clerk or judge shall issue an order vacating the writ of attachment."

Undertaking on attachment shall not exceed $20,000.

Approved: March 2, 1967.

CHAPTER 304

An Act Authorizing the Supreme Court of the State of Montana to Supervise and Control the Publication, Contents, Form and Substance of all Supplements and Replacement Volumes of the Revised Codes of Montana of 1947; and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. The supreme court of the state of Montana is hereby authorized and directed to supervise and control the publication of all supplements to the Revised Codes of Montana of 1947, as to form, and to determine from

Supreme court to supervise publication of supplements to R. C. M. 1947.

HeinOnline -- 1967 vol. II 1043 1967

time to time whether or not any volume should be replaced and when such replacement shall be had.

Repealing clause.

Section 2. All acts or parts of acts in conflict herewith are hereby repealed.

Effective immediately.

Section 3. This act shall be effective immediately upon passage and approval.

Approved: March 2, 1967.

CHAPTER 305

An Act Amending Section 82-2002, Revised Codes of Montana, 1947, Relating to the Reports of the Supreme Court and Their Distribution and Publication, and Repealing Sections 82-2003, 82-2004, 82-2005 and 82-2006, Revised Codes of Montana, 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 82-2002, Revised Codes of Montana, 1947, be amended to read as follows:

Duties of reporters—reports of supreme court —distribution and publication.

"82-2002. **Duties of reporters.** The reporters of the decisions of the supreme court shall make careful and accurate reports of the cases decided by the supreme court. The reports of such cases shall be made under the supervision of, and pursuant to rules and regulations promulgated by the justices of the supreme court. *Reports of all cases shall be furnished to the West Publishing Company for inclusion in their publication, the Pacific Reporter, and to any other private printing or duplicating concern requesting such reports for publication. The board of examiners, on request of the supreme court, shall contract with a publishing house to publish volumes of reports, the style, size and format thereof to be determined by the justices, and such board shall in such event prepare and issue a call for bids and in accordance with the terms and specifications of the call, enter into a contract with the lowest and best bidder.*"

Repealing clause.

Section 2. Sections 82-2003, 82-2004, 82-2005 and 82-2006, Revised Codes of Montana, 1947, are hereby repealed.

Approved: March 2, 1967.

HeinOnline -- 1967 vol. II 1044 1967

CHAPTER 306

An Act for the Creation of Boards of Park Commissioners for Counties; Defining Powers and Duties of Such Boards; Providing Qualification, Appointment, and Terms of Office for Park Commissioners; Providing for the Acquisition by Gift, Grant, Purchase, or Lease of Lands and Facilities for County Parks, Recreational Areas, Athletic Fields, Stadiums and Multi-Purpose Buildings for Public Use; Providing for the Operation and Use of Such Lands and Facilities; and Providing for the Creation of Indebtedness for the Acquisition of Such Land and Facilities.

Be it enacted by the Legislative Assembly of the State of Montana:

Creation of board of park commissioners—membership—term.

Section 1. There may be created in all counties a board of park commissioners, which shall be composed of the county commissioners and six (6) other persons appointed by county commissioners. The six (6) persons and three (3) commissioners so to be appointed shall have the same qualifications for the office of park commissioners as are required by section 11-710, R.C.M. 1947, for the office of county commissioners. The term of office of each park commissioner shall be three (3) years with and after the first Monday of May of the year in which he is appointed, and until his successor is appointed and qualified, save and except that two (2) of the commissioners first appointed shall hold office for the period of one (1) year, two (2) for two (2) years, and two (2) for three (3) years, with and after the first Monday of May, 1967, and until their successors are appointed and qualified. Such board of park commissioners shall constitute a department of the county government with the powers in this act provided. Before entering upon the discharge of his duties, each park commissioner shall take and subscribe to the oath provided by section 59-413, R.C.M. 1947, which oath shall be filed in the office of the county clerk and recorder.

Meetings—officers—duties.

On the first Monday of May in each year, said board of park commissioners shall meet and organize by electing one (1) of their number president, and one (1) of their number vice-president, who shall hold their offices respectively for the term of one (1) year. The president, and in his absence, the vice-president, shall preside at all meetings of the board, and shall counter-sign all warrants issued by the board. The county clerk shall be ex officio

HeinOnline -- 1967 vol. II 1045 1967

clerk of the board of park commissioners, and shall attend all meetings of said board and keep correct minutes of all proceedings of said board in a book to be provided for that purpose by it, to be called "proceedings of board of park commissioners of (entitled) county". It shall be the duty of the county clerk, as such clerk of board of park commissioners, to keep an accurate account of all transactions of said board separate from other county accounts, and to make and submit in writing to said board at the first meeting in May in each year a report under oath showing in detail all the receipts and disbursements made by the board during the previous calendar year, which report shall be in duplicate, and after being approved by said board, one (1) of said duplicates shall be filed in the office of the county clerk and one (1) in the office of the county treasurer, and he shall perform such other services as the board shall require. In the absence of the clerk at any meeting held by the board, it shall designate one (1) of its number as clerk pro tem to keep the minutes of said meeting, which minutes shall be delivered to the clerk to be transcribed into the record book of said board. The minutes of said meeting in said record book, when approved by the board, shall be prima facie evidence of the matters and things there recited in any court of this state.

Powers and duties of board.

Section 2. A county park board, in addition to powers and duties now given under law, shall have the following powers and duties:

Acquire property.

1. To acquire by gift, grant, purchase, lease or condemnation, lands or facilities within or without the limits of corporate municipalities for parks, playgrounds, recreation areas, swimming pools, athletic fields, skating rinks, museums, zoos, golf courses, camps, multi-purpose buildings for civic centers, fieldhouses, gymnasiums, youth centers, libraries, reading and meeting rooms or combinations thereof; and to furnish and equip and to manage and control the same, including establishment by resolution of reasonable and uniform charge for the privilege of using the same.

Contract indebtedness.

2. To contract an indebtedness in behalf of a county, upon the credit thereof, for the purposes of subsection 1 hereof, provided that the total amount of indebtedness authorized to be contracted in any form, including the then existing indebtedness, must not at any time exceed

HeinOnline -- 1967 vol. II 1046 1967

three per centum (3%) of the value of the taxable property of the county, ascertained by the last assessment for state and county taxes previous to the incurring of such indebtedness; and provided, further, that no money must be borrowed on bonds issued for the purchase of lands and improving same for any such purpose, until the proposition has been submitted to the vote of those qualified under the provisions of the state constittuion to vote at such election in the county affected thereby, and a majority vote cast in favor thereof.

Establish facilities.

3. To lay out, establish, improve and maintain grounds, parkways, drives and walks in the parks and recreation areas of the county; and to make plats thereof and to file the same in the office of the county clerk, and to determine when and what parks and recreation areas shall be opened to the public.

Rules and regulations.

4. To make all rules and regulations necessary or convenient to protect and promote the improvement of land and facilities under the care and control of said board, and for the protection of birds and animals inhabiting or frequenting land and facilities in parks and public places; and all rules and regulations for the use of land and facilities by the public; and to provide penalties for the violation of such rules and regulations, which rules and regulations shall have the force of resolutions of the county commissioners.

Employment.

5. To employ and discharge workmen, laborers, engineers, foresters and others, and to fix their compensation. To make all contracts necessary or convenient for carrying out any and all of the powers conferred and duties enjoined upon said board by this act; and to pay all obligations authorized to be incurred by the provisions of this act. The laws of nepotism shall apply to employment under this act.

Lease lands.

6. To lease lands owned by the county heretofore acquired for parks, which, in the judgment of the board, it shall not be advisable to improve as parks, upon such terms and conditions as the board shall deem to be for the best interests of the county; provided, that such lands shall not be leased for a longer time than five (5) years, and not for a longer time than one (1) year without the concurrence of two-thirds (2/3) of the entire board of park commissioners.

HeinOnline -- 1967 vol. II 1047 1967

7. To exercise all other powers incident to the duties enjoined by the provisions of this act.

Disposition of funds.

Section 3. All moneys paid out by the park commissioners under the provisions of this act shall be by warrant drawn upon the county treasurer, which shall be signed by the county clerk and countersigned by the president, or, in his absence, by the vice-president of the board of park commissioners. All moneys raised by tax for park purposes, or received by the board of park commissioners for the sale of hay, trees, plants, or from the use of or leasing of lands and facilities shall be paid into the county treasury, and the county treasurer shall keep all such moneys in a separate fund to be known as the "park fund." Such board shall have no power to incur liability on behalf of the county in excess of moneys on hand in, or taxes actually levied for, said park fund.

"Park fund."

Meetings—quorum—compensation.

Section 4. The board of park commissioners shall hold an anuual meeting on the first Monday of May, and a meeting at least once in each month in each year, at such times as the board shall by rule prescribe. Special meetings may also be held at the call of the president, or, in his absence, the vice-president, upon giving to each member of said board at least twenty-four (24) hours' notice in writing of the time and place of holding such meeting. A member of the board by his appearance at a special meeting shall waive the requirement of written notice. A majority of the entitre board shall be necessary to constitute a quorum for the transaction of the business of said board. No park commissioner shall receive compensation for his services rendered under the provisions of this act, but the actual and necessary expense incurred by any member of the board while acting under the orders of the board in the transaction of any business in its behalf may be paid upon being allowed and audited by the board. No park commissioner, directly or indirectly, shall be interested in, or benefit by, any contract made by the board or by its authority, or in the furnishing of any supplies for the use of the board. Any park commissioner who shall refuse or neglect, for the period of three (3) consecutive months, to attend the meetings of said board without leave of absence from said board, or who shall fail for the period of twenty (20) days from and after his appointment to qualify as in this act provided, shall be deemed to have vacated his office, and there-

HeinOnline -- 1967 vol. II 1048 1967

upon his successor may be appointed. All contracts made by said board shall be in the name of the county, and shall be signed by the county clerk and by the president, or, in his absence, by the vice-president, of said board.

Handling claims.

Section 5. The board of park commissioners shall, at its first regular meeting in each month, audit and allow all just claims against the county, liability for which shall have been incurred by said board; but no claim shall be audited or paid until an itemized account of such claim in writing, verified by the oath of the claimant or his or its authorized agent, shall have been filed in the office of the clerk of said board; provided, that no order or resolution providing for the payment or expenditure of money, or creating an obligation in excess of the sum of twenty-five dollars ($25), or authorizing the making of any contract, shall be passed or adopted except by a yea and nay vote, which vote shall be recorded in full in the minutes by the clerk.

Employment contract provisions.

Section 6. No contract of employment will be entered into except in compliance with the Equal Opportunity Act of 1966, and Executive Order of 1966, providing that there be no discrimination in the employment of persons due to race, creed, color or national origin.

Grants or loans.

Section 7. The park commissioners shall have authority to accept grants or loans from the United States government subject to agreements in conformance to federal laws and regulations relating thereto notwithstanding any provision of this act or other state statutes to the contrary.

Saving clause.

Section 8. Nothing in this act shall be so construed as to repeal or annul sections 11-901 to 11-988, or 16-1401 through 16-1414, R.C.M. 1947, or any parts or portions thereof.

Approved: March 2, 1967.

CHAPTER 307

An Act to Provide for Regulation of Food, Drugs, Devices and Cosmetics by Adoption of the Uniform State Food, Drug and Cosmetic Bill; Revising Existing Laws Pertaining to Food and Drug Control; and Repealing Sections 27-101, 27-102, 27-103, 27-104, 27-105, 27-108, 27-

HeinOnline -- 1967 vol. II 1049 1967

109, 27-110, 27-112, 27-113, 27-115, 27-116, 27-117, 27-118, 27-119, 27-120, 90-301.1 and 90-304, Revised Codes of Montana, 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

"Montana Food Drug and Cosmetic Act."

Section 1. This act may be cited as the Montana Food, Drug and Cosmetic Act.

Section 2. For the purpose of this act—

"State Board."

(a) The term "state board" means the Montana state board of health.

"Department."

(b) The term "department" means the Montana state department of health.

"Person."

(c) The term "person" includes individual, partnership, corporation and association.

"Food."

(d) The term "food" means

(1) articles used for food or drink for man or other animals,

(2) chewing gum, and

(3) articles used for components of any such article.

"Drug."

(e) The term "drug" means

(1) articles recognized in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them; and

(2) articles intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in man or other animals; and

(3) articles (other than food) intended to affect the structure or any function of the body of man or other animals; and

(4) articles intended for use as a component of any article specified in clause (1), (2) or (3); but does not include devices or their components, parts or accessories.

"Device."

(f) The term "device" (except when used in paragraph (1) of this section and in sections 3(j), 11(f), 15(c) and (o) and 19(o) means instruments, apparatus and

HeinOnline -- 1967 vol. II 1050 1967

contrivances, including their components, parts and accessories, intended

(1) for use in the diagnosis, cure, mitigation, treatment or prevention of disease in man or other animals; or

(2) to affect the structure or any function of the body of man or other animals.

"Cosmetic." (g) The term "cosmetic" means

(1) articles intended to be rubbed, poured, sprinkled, or sprayed on, introduced into or otherwise applied to the human body or any part thereof for cleansing, beautifying, promoting attractiveness or altering the appearance, and

(2) articles intended for use as a component of any such articles, except that such term shall not include soap.

"Official compendium." (h) The term "official compendium" means the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, official National Formulary, or any supplement to any of them.

"Label." (i) The term "label" means a display of written, printed or graphic matter upon the immediate container of any article; and a requirement made by or under authority of this act that any word, statement or other information appearing on the label shall not be considered to be complied with unless such word, statement or other information also appears on the outside container or wrapper, if any there be, of the retail package of such article, or is easily legible through the outside container or wrapper.

"Immediate container." (j) The term "immediate container" does not include package liners.

"Labeling." (k) The term "labeling" means all labels and other written, printed or graphic matter

(1) upon an article or any of its containers or wrappers, or

(2) accompanying such article.

Misbranded articles. (1) If an article is alleged to be misbranded because the labeling is misleading, or if an advertisement is alleged to be false because it is misleading, then in determining whether the labeling or advertisement is mislead-

HeinOnline -- 1967 vol. II 1051 1967

ing, there shall be taken into account (among other things) not only representations made or suggested by statement, word, design, device, sound or in any combination thereof, but also the extent to which the labeling or advertisement fails to reveal facts material in the light of such representations or material with respect to consequences which may result from the use of the article to which the labeling or advertisement relates under the conditions of use prescribed in the labeling or advertisement thereof or under such conditions of use as are customary or usual.

"Advertisement." (m) The term "advertisement" means all representations disseminated in any manner or by any means, other than by labeling, for the purpose of inducing, or which are likely to induce, directly or indirectly, the purchase of food, drugs, devices or cosmetics.

Antiseptics. (n) The representation of a drug, in its labeling or advertisement, as an antiseptic shall be considered to be a representation that it is a germicide, except in the case of a drug purporting to be, or represented as, an antiseptic for inhibitory use as a wet dressing, ointment, dusting powder, or such other use as involves prolonged contact with the body.

"New drug." (o) The term "new drug" means

(1) any drug the composition of which is such that such drug is not generally recognized, among experts qualified by scientific training and experience to evaluate the safety and effectiveness of drugs, as safe and effective for use under the conditions prescribed, recommended or suggested in the labeling thereof; or

(2) any drug the composition of which is such that such drug, as a result of investigations to determine its safety and effectiveness for use under such conditions, has become so recognized, but which has not, otherwise than in such investigations, been used to a material extent or for a material time under such conditions.

"Contaminated with filth." (p) The term "contaminated with filth" applies to any food, drug, device or cosmetic not securely protected from dust, dirt, and as far as may be necessary by all reasonable means, from all foreign or injurious contaminations.

HeinOnline -- 1967 vol. II 1052 1967

"Selling" to include.

(q) The provisions of this act regarding the selling of food, drugs, devices or cosmetics, shall be considered to include the manufacture, production, processing, packing, exposure, offer, possession and holding of any such article for sale; and the sale, dispensing and giving of any such article, and the supplying or applying of any such articles in the conduct of any food, drug or cosmetic establishment.

"Pesticide chemical."

(r) The term "pesticide chemical" means any substance which, alone, in chemical combination, or in formulation with one or more other substances is an "economic poison" within the meaning of the Federal Insecticide, Fungicide and Rodenticide Act (7 U.S.C., Secs. 135-135k as now enacted or as hereafter amended), and which is used in the production, storage or transportation of raw agricultural commodities.

"Raw agricultural commodity."

(s) The term "raw agricultural commodity" means any food in its raw or natural state, including all fruits that are washed, colored or otherwise treated in their unpeeled natural form prior to marketing.

"Food additive."

(t) The term "food additive" means any substance, the intended use of which results or may be reasonably expected to result, directly or indirectly, in its becoming a component or otherwise affecting the characteristics of any food, (including any substance intended for use in producing, manufacturing, packing, processing, preparing, treating, packaging, transporting or holding food; and including any source of radiation intended for any such use), if such substance is not generally recognized, among experts qualified by scientific training and experience to evaluate its safety, as having been adequately shown through scientific procedures (or, in the case of a substance used in a food prior to January 1, 1958 through either scientific procedures or experience based on common use in food) to be safe under the conditions of its intended use; except that such term does not include;

(1) a pesticide chemical in or on a raw agricultural commodity; or

(2) a pesticide chemical to the extent that it is intended for use or is used in the production, storage or transportation of any raw agricultural commodity; or

(3) a color additive; or

HeinOnline -- 1967 vol. II 1053 1967

(4) any substance used in accordance with a sanction or approval granted prior to the enactment of the Food Additives Amendment of 1958, pursuant to the Federal Act; the Poultry Products Inspection Act (21 U.S.C. 451 and the following) or the Meat Inspection Act of March 4, 1907 (34 Stat. 1260), as amended and extended (21 U.S.C. 71 and the following).

(u)

"Color additive." (1) The term "color additive" means a material which—

(A) is a dye, pigment or other substance made by a process of synthesis or similar artifice, or extracted, isolated or otherwise derived, with or without intermediate or final change of identity from a vegetable, animal, mineral or other source, or

(B) when added or applied to a food, drug or cosmetic, or to the human body or any part thereof, is capable (alone or through reaction with other substance) of imparting color thereto; except that such term does not include any material which has been or hereafter is exempted under the Federal Act.

"Color." (2) The term "color" includes black, white and intermediate grays.

(3) Nothing in clause (1) of section 2(u) shall be construed to apply to any pesticide chemical, soil or plant nutrient, or other agricultural chemical solely because of its effect in aiding, retarding or otherwise affecting, directly or indirectly the growth or other natural physiological process of produce of the soil and thereby affecting its color, whether before or after harvest.

"Federal act." (v) The term "Federal Act" means the Federal Food, Drug and Cosmetic Act, as amended (Title 21 U.S.C. 301 et seq.).

Prohibited acts. Section 3. The following acts and the causing thereof within the state of Montana are hereby prohibited:

(a) The manufacture, sale or delivery, holding or offering for sale of any food, drug, device or cosmetic that is adulterated or misbranded.

(b) The adulteration or misbranding of any food, drug, device or cosmetic.

HeinOnline -- 1967 vol. II 1054 1967

(c) The receipt in commerce of any food, drug, device or cosmetic that is adulterated or misbranded, and the delivery or proffered delivery thereof for pay or otherwise.

(d) The sale, delivery for sale, holding for sale or offering for sale of any article in violation of section 12 or 17.

(e) The dissemination of any false advertisement.

(f) The refusal to permit entry or inspection or to permit the taking of a sample, as authorized by section 22.

(g) The giving of a guaranty or undertaking which guaranty or undertaking is false, except by a person who relied on a guaranty or undertaking to the same affect signed by, and containing the name and address of the person residing in the state of Montana from whom he received in good faith the food, drug, device or cosmetic.

(h) The removal or disposal of a detained or embargoed article in violation of section 6.

(i) The alteration, mutilation, destruction, obliteration or removal of the whole or any part of the labeling of, or the doing of any other act with respect to a food, drug, device or cosmetic, if such act is done while such article is held for sale and results in such article being adulterated or misbranded.

(j) Forging, counterfeiting, simulating, or falsely representing, or without proper authority using any mark, stamp, tag, label or other identification device authorized or required by regulations promulgated under the provisions of this act or of the Federal Act.

(k) The using, on the labeling of any drug or in any advertisement relating to such drug, of any representation or suggestion that an application with respect to such drug is effective under section 17, or that such drug complies with the provisions of such section.

(l) In the case of a prescription drug distributed or offered for sale in this state, the failure of the manufacturer, packer or distributor thereof to maintain for transmittal, or to transmit, to any practitioner licensed by applicable law to administer such drug who makes written request for information as to such drug, true and correct copies of all printed matter which is required to be in-

HeinOnline -- 1967 vol. II 1055 1967

cluded in any package in which that drug is distributed or sold, or such other printed matter as is approved under the Federal Act. Nothing in this paragraph shall be construed to exempt any person from any labeling requirement imposed by or under other provisions of this act.

(m)

(1) Placing or causing to be placed upon any drug or device or container thereof, with intent to defraud, the trade name or other identifying mark, or imprint of another or any likeness of any of the foregoing; or

(2) Selling, dispensing, disposing of or causing to be sold, dispensed or disposed of or concealing or keeping in possession, control or custody, with intent to sell, dispense or dispose of, any drug, device or any container thereof, with knowledge that the trade name or other identifying mark or imprint of another or any likeness of any of the foregoing has been placed thereon in a manner prohibited by subsection (1) hereof; or

(3) Making, selling, disposing of or causing to be made, sold or disposed of or keeping in possession, control or custody, or concealing, with intent to defraud, any punch, die, plate or other thing designed to print, imprint, or reproduce that trade name or other identifying mark or imprint of another or any likeness of any of the foregoing upon any drug, device or container thereof.

(n) Dispensing or causing to be dispensed a different drug or brand of drug in place of the drug or brand of drug ordered or prescribed without the express permission in each case of the person ordering or prescribing.

(o) The using by any person to his own advantage, or revealing, other than to the state board, or officers or employees of the department, or to the courts when relevant in any judicial proceeding under this act, any information acquired under authority of this act concerning any method or process which as a trade secret is entitled to protection.

Injunctive remedy.

Section 4. In addition to the remedies hereinafter provided the department is hereby authorized to apply to district court for, and such court shall have jurisdiction upon hearing and for cause shown, to grant a temporary or permanent injunction restraining any person from vio-

HeinOnline -- 1967 vol. II 1056 1967

lating any provision of section 3; irrespective of whether or not there exists an adequate remedy at law.

Violation and penalty.

Section 5. (a) Any person who violates any of the provisions of section 3 shall be guilty of a misdemeanor and shall on conviction thereof be subject to imprisonment for not more than three (3) months or a fine of not more than two hundred fifty dollars ($250) or both such imprisonment and fine; but if the violation is committed after a conviction of such person under this section has become final, such person shall be subject to imprisonment for not more than six (6) months, or of a fine of not more than five hundred dollars ($500) or both such imprisonment and fine.

Penalties avoided —when.

(b) No person shall be subject to the penalties of subsection (a) of this section, for having violated section 3 (a) or (c) if he establishes a guaranty or undertaking signed by and containing the name and address of the person residing in the state of Montana from whom he received in good faith the article, to the effect that such article is not adulterated or misbranded within the meaning of this act, designating this act.

Exemption from act.

(c) No publisher, radio-broadcast licensee, or agency or medium for the dissemination of an advertisement, except the manufacturer, packer, distributor or seller of the article to which a false advertisement relates, shall be liable under this section by reason of the dissemination by him of such false advertisement, unless he has refused, on the request of the department to furnish the department the name and post office address of the manufacturer, packer, distributor, seller or advertising agency, residing in the state of Montana who causes him to disseminate such advertisement.

Procedure if probable cause found.

Section 6. (a) Whenever a duly authorized agent of the department finds or has probable cause to believe that any food, drug, device or cosmetic is adulterated, or so misbranded as to be dangerous or fraudulent within the meaning of this act, he shall affix to such article a tag or other appropriate marking, giving notice that such article is, or is suspected of being, adulterated or misbranded and has been detained or embargoed and warning all persons not to remove or dispose of such article by sale or otherwise until permission for removal or disposal is given by such agent or the court. It shall be unlawful for

HeinOnline -- 1967 vol. II 1057 1967

any person to remove or dispose of such detained or embargoed article by sale or otherwise without such permission.

Judicial procedure.

(b) When an article detained or embargoed under subsection (a) has been found by such agent to be adulterated or misbranded, he shall petition the justice of peace, police judge or district court in whose jurisdiction the article is detained or embargoed for a libel for condemnation of such article. When such agent has found that an article so detained or embargoed is not adulterated or misbranded, he shall remove the tag or other marking.

(c) If the court finds that a detained or embargoed article is adulterated or misbranded, such article shall after entry of the decree be destroyed at the expense of the claimant thereof, under the supervision of such agent, and all court costs and fees and storage and other proper expenses shall be taxed against the claimant of such article or his agent; provided, that when the adulteration or misbranding can be corrected by proper labeling or processing of the article, the court, after entry of the decree and after such costs, fees and expenses have been paid and a good and sufficient bond, conditioned that such article shall be so labeled or processed, has been executed, may by order direct that such article be delivered to the claimant thereof for such labeling or processing under the supervision of an agent of the department. The expense of such supervision shall be paid by claimant. Such shall be returned to the claimant of the article on the representation to the court by the department that the article is no longer in violation of this act, and that the expenses of such supervision have been paid.

Food to be condemned or destroyed.

(d) Whenever the department or any of its authorized agents shall find in any room, building, vehicle of transportation or other structure, any meat, sea food, poultry, vegetable, fruit or other perishable articles which are unsound, or contain any filthy, decomposed or putrid substance, or that may be poisonous or deleterious to health or otherwise unsafe, the same being hereby declared to be a nuisance, the department or its authorized agent, shall forthwith condemn or destroy the same or in any other manner render the same unsalable as human food.

HeinOnline -- 1967 vol. II 1058 1967

Attorney general or county attorney to take appropriate action.

Section 7. It shall be the duty of each state attorney or county attorney, to whom the department reports any violation of this act, to cause appropriate proceedings to be instituted in the proper courts without delay and to be prosecuted in the manner required by law. Before any violation of this act is reported to any such attorney for the institution of a criminal proceeding, the person against whom such proceeding is contemplated shall be given appropriate notice and an opportunity to present his views before the department or its designated agent, either orally or in writing, in person or by attorney, with regard to such contemplated proceeding.

Written notice of warning —when.

Section 8. Nothing in this act shall be construed as requiring the department to report for the institution of proceedings under this act, minor violations of this act, whenever the department believes that the public interest will be adequately served in the circumstances by a suitable written notice of warning.

Promulgation of regulations —when.

Section 9. Whenever in the judgment of the state board such action will promote honesty and fair dealing in the interest of consumers, the state board shall promulgate regulations fixing and establishing for any food or class of food a reasonable definition and standard of identity, and/or reasonable standard of quality and/or fill of container. In prescribing a definition and standard of identity for any food or class of food in which optional ingredients are permitted, the state board shall, for the purpose of promoting honesty and fair dealing in the interest of consumers, designate the optional ingredients which shall be named on the label. The definitions and standards so promulgated shall conform so far as practicable to the definitions and standards promulgated under authority of the Federal Act or the state board may promulgate by reference the definitions and standards promulgated under authority of the Federal Act.

Food is adulterated —when.

Section 10. A food shall be deemed to be adulterated —(a)

(1) If it bears or contains any poisonous or deleterious substance which may render it injurious to health; but in case the substance is not an added substance such food shall not be considered adulterated under this clause if the quantity of such substance in such food does not ordinarily render it injurious to health; or

HeinOnline -- 1967 vol. II 1059 1967

(2) (A) if it bears or contains any added poisonous or added deleterious substance, other than one which is

(i) a pesticide chemical in or on a raw agricultural commodity;

(ii) a food additive; or

(iii) a color additive, which is unsafe within the meaning of section 13 (a); or

(B) if it is a raw agricultural commodity and it bears or contains a pesticide chemical which is unsafe within the meaning of section 408 (a) of the Federal Act as amended or

(C) if it is or it bears or contains any food additive which is unsafe within the meaning of section 409 of the Federal Act as amended; provided, that where a pesticide chemical has been used in or on a raw agricultural commodity in conformity with an exemption granted or tolerance prescribed under section 408 of the Federal Act, and such raw agricultural commodity has been subjected to processing such as canning, cooking, freezing, dehydrating or milling, the residue of such pesticide chemical remaining in or on such processed food shall, notwithstanding the provisions of section 13 and clause (C) of this section, not be deemed unsafe if such residue in or on the raw agricultural commodity has been removed to the extent possible in good manufacturing practice, and the concentration of such residue in the processed food when ready-to-eat, is not greater than the tolerance prescribed for the raw agricultural commodity; or

(3) if it consists in whole or in part of a diseased, contaminated, filthy, putrid or decomposed substance, or if it is otherwise unfit for food; or

(4) if it has been produced, prepared, packed or held under insanitary conditions, whereby it may have become contaminated with filth, or whereby it may have been rendered diseased, unwholesome or injurious to health; or

(5) if it is the product of a diseased animal or an animal which has died otherwise than by slaughter, or that has been fed upon the uncooked offal from a slaughterhouse; or

HeinOnline -- 1967 vol. II 1060 1967

(6) if its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health.

(b) (1) If any valuable constituent has been in whole or in part omitted or abstracted therefrom; or

(2) If any substance has been substituted wholly or in part therefor; or

(3) If damage or inferiority has been concelaed in any manner; or

(4) If any substance has been added thereto or mixed or packed therewith so as to increase its bulk or weight, or reduce its quality or strength or make it appear better or of greater value than it is.

(c) If it is confectionery and it bears or contains any alcohol or nonnutritive article or substance except harmless coloring, harmless flavoring, harmless resinous glaze not in excess of four-tenths of 1 per centum, harmless natural wax not in excess of four-tenths of 1 per centum, harmless natural gum and pectin; provided, that this paragraph shall not apply to any confectionery by reason of its containing less than one-half of 1 per centum by volume of alcohol derived solely from the use of flavoring extracts, or to any chewing gum by reason of its containing harmless nonnutritive masticatory substances.

(d) If it is or bears or contains any color additive which is unsafe within the meaning of the Federal Act.

Section 11. A food shall be deemed to be misbranded— Food is misbranded —when.

(a) If its labeling is false or misleading in any particular.

(b) If it is offered for sale under the name of another food.

(c) If it is an imitation of another food for which a definition and standard of identity has been prescribed by regulations as provided by section 9; or if it is an imitation of another food that is not subject to subsection (g) of this section, unless its label bears in type of uniform size and prominence, the word imitation, and, immediately thereafter, the name of the food imitated.

(d) If its container is so made, formed or filled as to be misleading.

HeinOnline -- 1967 vol. II 1061 1967

(e) If in package form, unless it bears a label containing

(1) the name and place of business of the manufacturer, packer or distributor;

(2) an accurate statement of the quantity of the contents in terms of weight, measure or numerical count; provided, that under clause (2) of this paragraph reasonable variations shall be permitted, and exemptions as to small packages shall be established, by regulations prescribed by the state board.

(f) If any word, statement or other information required by or under authority of this act to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs or devices in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

(g) If it purports to be, or is represented as a food for which a definition and standard of identity has been prescribed by regulations as provided by section 9, unless

(1) it conforms to such definition and standard, and

(2) its label bears the name of the food specified in the definition and standard, and, in so far as may be required by such regulations, the common names of optional ingredients (other than spices, flavoring and coloring) present in such food.

(h) If it purports to be or is represented as—

(1) a food for which a standard of quality has been prescribed by regulations as provided by section 9 and its quality falls below such standard unless its label bears, in such manner and form as such regulations specify, a statement that it falls below such standard; or

(2) a food for which a standard or standards of fill of container have been prescribed by regulation as provided by section 9, and it falls below the standard of fill of container applicable thereto, unless its label bears, in such manner and form as such regulations specify, a statement that it falls below such standard.

HeinOnline -- 1967 vol. II 1062 1967

(i) If it is not subject to the provisions of paragraph (g) of this section unless it bears labeling clearly giving

(1) the common or usual name of the food, if any there be, and

(2) in case it is fabricated from two or more ingredients, the common or usual name of each such ingredient; except that spices, flavorings and colorings, other than those sold as such, may be designated as spices, flavorings and colorings without naming each; provided, that to the extent that compliance with the requirements of clause (2) of this paragraph is impractical or results in deception or unfair competition, exemptions shall be established by regulations promulgated by the state board; and provided further that the requirements of clause (2) of this paragraph shall not apply to food products which are packaged at the direction of purchasers at retail at the time of sale, the ingredients of which are disclosed to the purchasers by other means in accordance with regulations promulgated by the state board.

(j) If it purports to be or is represented for special dietary uses, unless its label bears such information concerning its vitamin, mineral and other dietary properties as the state board determines to be, and by regulations prescribes as, necessary in order to fully inform purchasers as to its value for such uses.

(k) If it bears or contains any artificial flavoring, artificial coloring or chemical preservative, unless it bears labeling stating that fact; provided, that the extent that compliance with the requirements of this paragraph is impracticable, exemptions shall be established by regulations promulgated by the state board. Butter, cheese, ice cream and frozen desserts as defined in sections 32-476 through 32-486, R.C.M. 1947, shall be exempt from label statements for artificial flavoring and artificial coloring.

(l) If it is a product intended as an ingredient of another food and when used according to the directions of the purveyor will result in the final food product being adulterated or misbranded.

(m) If it is a color additive unless its packaging and labeling are in conformity with such packaging and

HeinOnline -- 1967 vol. II 1063 1967

labeling requirements applicable to such color additive prescribed under the provisions of the Federal Act.

Section 12.

Regulations providing for issuance to manufacturers of permits stating conditions.

(a) Whenever the department finds after investigation that the distribution in Montana of any class of food may, by reason of contamination with microorganisms during manufacture, processing or packing thereof in any locality, be injurious to health, and that such injurious nature cannot be adequately determined after such articles have entered commerce, it then, and in such case only, shall promulgate regulations providing for the issuance to manufacturers, processors or packers of such class of food in such locality, of permits to which shall be attached such conditions governing the manufacture, processing or packing of such class of food for such temporary period of time, as may be necessary to protect the public health; and after the effective date of such regulations and during such temporary period, no person shall introduce or deliver for introduction into commerce any such food manufactured, processed or packed by any such manufacturer, processor or packer unless such manufacturer, processor or packer holds a permit issued by the department as provided by such regulations.

Suspension and reinstatement of permits.

(b) The department is authorized to suspend immediately upon notice any permit issued under authority of this section if it is found that any of the conditions of the permit have been violated. The holder of a permit so suspended shall be privileged at any time to apply for the reinstatement of such permit, and the department shall, immediately after prompt hearing and inspection of the establishment, reinstate such permit if it is found that adequate measures have been taken to comply with and maintain the conditions of the permit as originally issued or as amended.

Access to factories by members of department.

(c) Any officer or employee duly designated by the department shall have access to any factory or establishment, the operator of which holds a permit from the department for the purpose of ascertaining whether or not the conditions of the permit are being complied with, and denial of access for such inspection shall be ground for suspension of the permit until such access is freely given by the operator.

HeinOnline -- 1967 vol. II 1064 1967

Section 13.

Regulation of quantity of toxic substances used.

(a) Any added poisonous or deleterious substance, any food additive, any pesticide chemical in or on a raw agricultural commodity or any color additive shall, with respect to any particular use or intended use, be deemed unsafe for the purpose of application of clause (2) (A) of section 10 (a) with respect to any food, section 14 (a) with respect to any drug or device, or section 18 (a) with respect to any cosmetic, unless there is in effect a regulation pursuant to subsection (b) of this section limiting the quantity of such substance and the use or intended use of such substance conform to the terms prescribed by such regulation. While such regulation relating to such substance is in effect, a food, drug or cosmetic shall not, by reason of bearing or containing such substance in accordance with the regulation, be considered adulterated within the meaning of clause 1, section 10 (a), section 14 (a) or section 18 (a).

Regulation by state board.

(b) The state board, whenever public health or other considerations in the state so require, is authorized to adopt, amend or repeal regulations whether or not in accordance with regulations promulgated under the Federal Act prescribing therein tolerances for any added poisonous or deleterious substances for food additives, for pesticide chemicals in, or on, raw agricultural commodities or for color additives, including, but not limited to, zero tolerances and exemptions from tolerances, in the case of pesticide chemicals in or on raw agricultural commodities, and prescribing the conditions under which a food additive or a color additive may be safely used and exemptions where such food additive or color additive is to be used solely for investigational or experimental purposes, upon its own motion or upon the petition of any interested party requesting that such a regulation be established; and it shall be incumbent upon such petitioner to establish by data submitted to the state board that a necessity exists for such regulation and that its effect will not be detrimental to the public health. If the data furnished by the petitioner is not sufficient to allow the state board to determine whether such regulation should be promulgated, the state board may require additional data to be submitted and failure to comply with the request shall be sufficient grounds to deny the request. In adopting, amending or repealing

HeinOnline -- 1967 vol. II 1065 1967

regulations relating to such substances the state board shall consider among other relevant factors, the following which the petitioner, if any, shall furnish:

Information required for amendment of regulations.

(1) the name and all pertinent information concerning such substance including where available, its chemical identity and composition, a statement of the conditions of the proposed use, including directions, recommendations and suggestions and including specimens of proposed labeling, all relevant data bearing on the physical or other technical effect and the quantity required to produce such effect.

(2) The probable composition of or other relevant exposure from the article and of any substance formed in or on a food, drug, or cosmetic resulting from the use of such substance.

(3) The probable consumption of such substance in the diet of man and animals taking into account any chemically or pharmacologically related substance in such diet.

(4) Safety factors which, in the opinion of experts qualified by scientific training and experience to evaluate the safety of such substances for the use or uses for which they are proposed to be used, are generally recognized as appropriate for the use of animal experimentation data.

(5) The availability of any needed practicable methods of analysis for determining the identity and quantity of

(A) such substance in or on an article,

(B) any substance formed in or on such article because of the use of such substance, and

(C) the pure substance and all intermediates and impurities and,

(6) facts supporting a contention that the proposed use of such substance will serve a useful purpose.

Drug or device deemed to be adulterated —when.

Section 14. A drug or device shall be deemed to be adulterated—(a)

(1) if it consists in whole or in part of any filthy, putrid or decomposed substance; or

HeinOnline -- 1967 vol. II 1066 1967

(2) (A) if it has been produced, prepared, packed or held under insanitary conditions whereby it may have been contaminated with filth, or whereby it may have been rendered injurious to health; or

(B) if it is a drug and the methods used in, or the facilities or controls used for, its manufacture, processing, packing or holding do not conform to or are not operated or administered in conformity with current good manufacturing practice to assure that such drug meets the requirements of this act as to safety and has the identity and strength and meets the quality and purity characteristics, which it purports or is represented to possess, or

(3) if it is a drug and its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health; or

(4) if

(A) it is a drug and it bears or contains, for purposes of coloring only, a color additive which is unsafe within the meaning of the Federal Act or

(B) it is a color additive, the intended use of which in or on drugs is for purposes of coloring only, and is unsafe within the meaning of the Federal Act.

(b) If it purports to be or is represented as a drug the name of which is recognized in an official compendium, and its strength differs from, or its quality or purity falls below, the standard set forth in such compendium. Such determination as to strength, quality or purity shall be made in accordance with the tests or methods of assay set forth in such compendium, or in the absence of or inadequacy of such tests or methods of assay, those prescribed under authority of the Federal Act. No drug defined in an official compendium shall be deemed to be adulterated under this paragraph because it differs from the standard of strength, quality or purity therefor set forth in such compendium, if its difference in strength, quality or purity from such standard is plainly stated on its label. Whenever a drug is recognized in both the United States Pharmacopoeia and the Homeopathic Pharmacopoeia of the United States it shall be subject to the requirements of the United States Pharma-

HeinOnline -- 1967 vol. II 1067 1967

copoeia unless it is labeled and offered for sale as a homeopathic drug, in which case it shall be subject to the provisions of the Homeopathic Pharmacopoeia of the United States and not to those of the United States Pharmacopoeia.

(c) If it is not subject to the provisions of paragraph (b) of this section and its strength differs from, or its purity or quality falls below, that which it purports or is represented to possess.

(d) If it is a drug and any substance has been

(1) mixed or packed therewith so as to reduce its quality or strength; or

(2) substituted wholly or in part therefor.

Drug or device deemed to be misbranded —when.

Section 15. A drug or device shall be deemed to be misbranded—

(a) If its labeling is false or misleading in any particular.

(b) If in package form unless it bears a label containing

(1) the name and place of business of the manufacturer, packer or distributor; and

(2) an accurate statement of the quantity of the contents in terms of weight, measure or numerical count; provided, that under clause (2) of this paragraph reasonable variations shall be permitted, and exemptions as to small packages shall be allowed, in accordance with regulations prescribed by the state board, or issued under the Federal Act.

(c) If any word, statement or other information required by or under authority of this act to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statement, designs or devices, in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

(d) If it is for use by man and contains any quantity of the narcotic or hypnotic substance alphaeucaine, barbituric acid, beta-eucaine, bromal, cannabis, carbromal,

HeinOnline -- 1967 vol. II 1068 1967

chloral, coca, cocaine, codeine, heroin, marihuana, morphine, opium, paraldehyde, peyote, or sulphonmethane, or any chemical derivative of such substance, which derivative, after investigation, has been found to be and designated as habit forming, by regulations issued by the state board under this act, or by regulations issued pursuant to section 502 (d) of the Federal Act, unless its label bears the name and quantity or proportion of such substance or derivative and in juxtaposition therewith the statement "Warning—May be habit forming."

(e) (1) If it is a drug, unless its label bears, to the exclusion of any other non-proprietary name (except the applicable systematic chemical name or the chemical formula),

(A) the established name (as defined in subparagraph (2)) of the drug, if such there be; and

(B) in case it is fabricated from two or more ingredients, the established name and quantity of each active ingredient, including the kind and quanity or proportion of any alcohol, and also including, whether active or not, the established name and quantity or proportion of any bromides, ether, chloroform, acetanilid, acetphenetidin, amidopyrine, antipyrine, atropine, hyoscine, hyoscyamine, arsenic, digitalis, digitalis glucosides, mercury, ouabain, strophanthin, strychnine, thyroid, or any derivative or preparation of any such substances contained therein: provided that the requirement for stating the quantity of the active ingredients, other than the quantity of those specifically named in this paragraph, shall apply only to prescription drugs: provided further, that to the extent that compliance with the requirements of clause (B) of this subparagraph is impracticable, exemptions shall be allowed under regulations promulgated by the state board, or under the Federal Act.

"Established name."

(e) (2) As used in this paragraph (e), the term "established name," with respect to a drug or ingredient thereof, means

(A) the applicable official name designated pursuant to section 508 of the Federal Act, or

(B) if there is no such name and such drug, or such ingredient, is an article recognized in an official com-

HeinOnline -- 1967 vol. II 1069 1967

pendium, then the official title thereof in such compendium or

(C) if neither clause (A) nor clause (B) of this subparagraph applies, then the common or usual name if any, of such drug or of such ingredient: provided further, that where clause (B) of this subparagraph applies to an article recognized in the United States Pharmacopoeia and in the Homeopathic Pharmacopoeia under different official titles, the official title used in the United States Pharmacopoeia shall apply unless it is labeled and offered for sale as a homeopathic drug, in which case the official title used in the Homeopathic Pharmacopoeia shall apply.

(f) Unless its labeling bears

(1) adequate directions for use; and

(2) such adequate warnings against use in those pathological conditions or by children where its use may be dangerous to health, or against unsafe dosage or methods or duration of administration or application, in such manner and form as are necessary for the protection of users; provided, that where any requirement of clause (1) of this paragraph, as applied to any drug or device, is not necessary for the protection of the public health, the state board shall promulgate regulations exempting such drug or device from such requirements: provided further, that articles exempted under regulations issued under section 502 (f) of the Federal Act may also be exempt.

(g) if it purports to be a drug the name of which is recognized in an official compendium, unless it is packaged and labeled as prescribed therein: provided, that the method of packing may be modified with the consent of the department, or if consent is obtained under the Federal Act. Whenever a drug is recognized in both the United States Pharmacopoeia and the Homeopathic Pharmacopoeia of the United States, it shall be subject to the requirement of the United States Pharmacopoeia with respect to packaging and labeling unless it is labeled and offered for sale as a homeopathic drug, in which case it shall be subject to the provisions of the Homeopathic Pharmacopoeia of the United States and not to those of the United States Pharmacopoeia:

HeinOnline -- 1967 vol. II 1070 1967

provided further, that in the event of inconsistency between the requirements of this paragraph and those of paragraph (e) as to the name by which the drug or its ingredients shall be designated, the requirements of paragraph (e) shall prevail.

(h) If it has been found by the department or under the Federal Act to be a drug liable to deterioration, unless it is packaged in such form and manner, and its label bears a statement of such precautions, as the regulations issued by the state board or under the Federal Act require as necessary for the protection of public health. No such regulation shall be established for any drug recognized in an official compendium until the department shall have informed the appropriate body charged with the revision of such compendium of the need for such packaging or labeling requirements and such body shall have failed within a reasonable time to prescribe such requirements.

(i) (1) If it is a drug and its container is so made, formed, or filled as to be misleading; or

(2) If it is an imitation of another drug; or

(3) If it is offered for sale under the name of another drug.

(j) If it is dangerous to health when used in the dosage, or with the frequency or duration prescribed, recommended or suggested in the labeling thereof.

(k) If it is, or purports to be, or is represented as a drug composed wholly or partly of insulin, unless

(1) it is from a batch with respect to which a certificate or release has been issued pursuant to section 506 of the Federal Act, and

(2) such certificate or release is in effect with respect to such drug.

(l) If it is, or purports to be, or is represented as a drug composed wholly or partly of any kind of penicillin, streptomycin, chlortetracycline, chloramphenical, bacitracin, or any other antibiotic drug, or any derivative thereof, unless

(1) it is from a batch with respect to which a certificate or release has been issued pursuant to section 507 of the Federal Act, and

HeinOnline -- 1967 vol. II 1071 1967

(2) such certificate or release is in effect with respect to such drug: provided, that this paragraph shall not apply to any drug or class of drugs exempted by regulations promulgated under section 507 (c) or (d) of the Federal Act. For the purpose of this subsection the term "antibiotic drug" means any drug intended for use by man containing any quantity of any chemical substance which is produced by a microorganism and which has the capacity to inhibit or destroy microorganisms in dilute solution (including the chemically synthesized equivalent of any such substance).

(m) If it is a color additive, the intended use of which in or on drugs is for the purpose of coloring only, unless its packaging and labeling are in conformity with such packaging and labeling requirements applicable to such color additive, prescribed under the provisions of section 13(b) or of the Federal Act.

(n) In the case of any prescription drug distributed or offered for sale in this state, unless the manufacturer, packer or distributor thereof includes in all advertisements and other descriptive printed matter issued or caused to be issued by the manufacturer, packer or distributor with respect to that drug a true statement of

(1) the established name, as defined in section 15 (e) (2) of this act,

(2) the formula showing quantitatively each ingredient of such drug to the extent required for labels under section 502 (e) of the Federal Act, and

(3) such other information in brief summary relating to side effects, contraindications, and effectiveness as shall be required in regulations issued under the Federal Act.

(o) If a trademark, trade name or other identifying mark, imprint or device or another or any likeness of the foregoing has been placed thereon or upon its container with intent to defraud.

(p) Drugs and devices which are, in accordance with the practice of the trade, to be processed, labeled or repacked in substantial quantities at establishments other than those where originally processed or packed shall be exempt from any labeling or packaging requirements of

HeinOnline -- 1967 vol. II 1072 1967

this act, provided that such drugs and devices are being delivered, manufactured, processed, labeled, repacked or otherwise held in compliance with regulations issued by the state board, or under the Federal Act.

Section 16.

Drugs intended for use by man.

(a) A drug intended for use by man which —

(1) is a habit-forming drug to which section 15 (d) applies; or

(2) because of its toxicity or other potentiality for harmful effect, or the method of its use, or the collateral measures necessary to its use, is not safe for use except under the supervision of a practioner licensed by law to administer such drug; or

(3) is limited by an approved application under section 505 of the Federal Act or section 17 of this act to use under the professional supervision of a practitioner licensed by law to administer such drug, shall be dispensed only

(A) upon a written prescription of a practitioner licensed by law to administer such drug, or

(B) upon an oral prescription of such practitioner which is reduced promptly to writing and filed by the pharmacist, or

(C) by refilling any such written or oral prescription if such refilling is authorized by the prescriber either in the original prescription or by oral order which is reduced promptly to writing and filed by the pharmacist. The act of dispensing a drug contrary to the provisions of this paragraph shall be deemed to be an act which results in a drug being misbranded while held for sale.

(b) Any drug dispensed by filling or refilling a written or oral prescription of a practitioner licensed by law to administer such drug shall be exempt from the requirements of section 15, except subsections (a), (i) (2) and (3), (k), and (1), and the packaging requirements of subsections (g) and (h), if the drug bears a label containing the name and address of the dispenser, the serial number and date of the prescription or of its filling, the name of the prescriber and, if stated in the prescription, the name of the patient and the directions

HeinOnline -- 1967 vol. II 1073 1967

for use and cautionary statements, if any, contained in such prescription. This exemption shall not apply to any drug dispensed in the course of the conduct of a business of dispensing drugs pursuant to diagnosis by mail, or to a drug dispensed in violation of paragraph (a) of this section.

(c) The state board may by regulation remove drugs subject to section 15 (d) and section 17 from the requirements of paragraph (a) of this section when such requirements are not necessary for the protection of the public health. Drugs removed from the prescription requirements of the Federal Act by regulations issued thereunder may also, by regulations issued by the state board, be removed from the requirements of paragraph (a) .

(d) A drug which is subject to paragraph (a) of this section shall be deemed to be misbranded if at any time prior to dispensing its label fails to bear the statement "Caution: Federal Law Prohibits Dispensing Without Prescription", or "Caution: State Law Prohibits Dispensing Without Prescription." A drug to which paragraph (a) of this section does not apply shall be deemed to be misbranded if at any time prior to dispensing its label bears the caution statement quoted in the preceding sentence.

(e) Nothing in this section shall be construed to relieve any person from any requirement prescribed by or under authority of law with respect to drugs now included or which may hereafter be included within the classifications of narcotic drugs or marihuana as defined in the applicable federal and state laws relating to narcotic drugs and marihuana.

Limitations on use of new drugs.

Section 17.

(a) No person shall sell, deliver, offer for sale, hold for sale or give away any new drug unless

(1) an application with respect thereto has been approved and said approval has not been withdrawn under section 505 of the Federal Act, or

(2) when not subject to the Federal Act, unless such drug has been tested and has been found to be safe for use and effective in use under the conditions prescribed, recommended, or suggested in the labeling thereof, and

HeinOnline -- 1967 vol. II 1074 1967

prior to selling or offering for sale such drug, there has been filed with the department an application setting forth

(A) full reports of investigations which have been made to show whether or not such drug is safe for use and whether such drug is effective in use;

(B) a full list of the articles used as components of such drug;

(C) a full statement of the composition of such drug;

(D) a full description of the methods used in, and the facilities and controls used for, the manufacture, processing and packing of such drug;

(E) such samples of such drug and of the articles used as components thereof as the department may require; and

(F) specimens of the labeling proposed to be used for such drug.

(b) An application provided for in subsection (a) (2) shall become effective on the one hundred eightieth day after the filing thereof, except that if the department finds, after due notice to the applicant and giving him an opportunity for a hearing, that the drug is not safe or not effective for use under the conditions prescribed, recommended or suggested in the proposed labeling thereof, he shall, prior to the effective date of the application, issue an order refusing to permit the application to become effective.

(c) An order refusing to permit an application under this section to become effective may be revoked by the department.

(d) This section shall not apply— Exemptions.

(1) to a drug intended solely for investigational use by experts qualified by scientific training and experience to investigate the safety and effectiveness of drugs, provided the drug is plainly labeled in compliance with regulations issued by the state board or pursuant to section 505 (i) or 507 (d) of the Federal Act, or

(2) to a drug sold in this state at any time prior to the enactment of this act or introduced into interstate

HeinOnline -- 1967 vol. II 1075 1967

commerce at any time prior to the enactment of the Federal Act; or

(3) to any drug which is licensed under the Virus, Serum and Toxin Act of July 1, 1902 (U.S.C. 1958 ed. title 42 chapter 6A sec. 262); or

(4) to any drug which is subject to section 15(1) of this act.

(e) The provisions of section 2(o) shall not apply to any drug which, on October 9, 1962 or on the date immediately preceding the enactment of this subsection,

(1) was commercially sold or used in this state or in the United States,

(2) was not a new drug as defined by section 2(o) as then in force, and

(3) was not covered by an effective application under section 17 of this act or under section 505 of the Federal Act, when such drug is intended solely for use under conditions prescribed, recommended or suggested in labeling with respect to such drug.

Cosmetic deemed adulterated when.

Section 18. **A cosmetic shall be deemed to be adulterated**—(a) If it bears or contains any poisonous or deleterious substance which may render it injurious to users under the conditions of use prescribed in the labeling or advertisement thereof, or under such conditions of use as are customary or usual. Provided, that this provision shall not apply to coal-tar hair dye, the label of which bears the following legend conspicuously displayed thereon: "Caution—This product contains ingredients which may cause skin irritation on certain individuals and a preliminary test according to accompanying directions should first be made. This product must not be used for dyeing the eyelashes or eyebrows; to do so may cause blindness." And the labeling of which bears adequate directions for such preliminary testing. For the purpose of this paragraph and paragraph (e) the term "hair dye" shall not include eyelash dyes or eyebrow dyes.

(b) If it consists in whole or in part of any filthy, putrid or decomposed substance.

(c) If it has been produced, prepared, packed, or held under insanitary conditions whereby it may have

HeinOnline -- 1967 vol. II 1076 1967

become contaminated with filth, or whereby it may have been rendered injurious to health.

(d) If its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health.

(e) If it is not a hair dye and it is, or it bears or contains a color additive which is unsafe within the meaning of the Federal Act.

Cosmetic deemed misbranded —when.

Section 19. **A cosmetic shall be deemed to be misbranded**—(a) If its labeling is false or misleading in any particular.

(b) If in package form unless it bears a label containing

(1) the name and place of business of the manufacturer, packer, or distributor; and

(2) an accurate statement of the quantity of the contents in terms of weight, measure or numerical count: provided, that under clause (2) of this paragraph reasonable variations shall be permitted and exemptions as to small packages shall be established by regulations prescribed by the state board.

(c) If any word, statement or other information required by or under authority of this act to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs or devices, in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

(d) If its container is so made, formed or filled as to be misleading.

(e) If it is a color additive, unless its packaging and labeling are in conformity with such packaging and labeling requirements applicable to such color additive prescribed under the provisions of the Federal Act. This paragraph shall not apply to packages of color additives which, with respect to their use for cosmetics, are marketed and intended for use only in or on hair dyes (as defined in the last sentence of section 18(a)).

HeinOnline -- 1967 vol. II 1077 1967

Advertisement deemed false —when.

Section 20. (a) An advertisement of a food, drug, device or cosmetic shall be deemed to be false if it is false or misleading in any particular.

(b) For the purpose of this act the advertisement of a drug or device representing it to have any effect in albuminuria, appendicitis, arteriosclerosis, blood poison, bone disease, Bright's disease, cancer, carbuncles, cholecytitis, diabetes, diphtheria, dropsy, erysipelas, gallstones, heart and vascular diseases, high blood pressure, mastoditis, measles, meningitis, mumps, nephritis, otitis media, paralysis, pneumonia, poliomyelitis (infantile paralysis), prostate gland disorders, pyelitis, scarlet fever, sexual impotence, sinus infection, smallpox, tuberculosis, tumors, typhoid, uremia, venereal disease, shall also be deemed to be false, except that no advertisement not in violation of subsection (a) shall be deemed to be false under this subsection if it is disseminated only to members of the medical, dental, or veterinary professions, or appears only in the scientific periodicals of these professions or is disseminated only for the purpose of public health education by persons not commercially interested, directly or indirectly, in the sale of such drugs or devices: provided, that whenever the state board determines that an advance in medical science has made any type of self-medication safe as to any of the diseases named above, the state board shall by regulation authorize the advertisement of drugs having curative or therapeutic effect for such disease, subject to such conditions and restrictions as the state board may deem necessary in the interests of public health: provided, that this subsection shall not be construed as indicating that self-medication for diseases other than those named herein is safe or efficacious.

Authority for the promulgation of regulations vested in state board.

Section 21. (a) The authority to promulgate regulations for the efficient enforcement of this act is hereby vested in the state board. The state board is hereby authorized to adopt by reference the regulations promulgated by the Food and Drug Administration under the Federal Act.

(b) Hearings authorized or required by this act shall be conducted by the state board or such officer, agent or employee as the state board may designate for the purpose.

(c) Before promulgating any regulations contemplated by section 9; 11 (j); 12; 15 (d), (f), (g), (h), (m),

HeinOnline -- 1967 vol. II 1078 1967

and (p); 16 (c); or 20 (b), the state board shall give appropriate notice of the proposal and of the time and place for a hearing. The regulation so promulgated shall become effective on a date fixed by the state board (which date shall not be prior to ten (10) days after its promulgation). Such regulation may be amended or repealed in the same manner as is provided for its adoption, except that in the case of a regulation amending or repealing any such regulation the state board, to such an extent as it deems necessary in order to prevent undue hardship, may disregard the foregoing provisions regarding notice, hearing or effective date. No hearing will be required for promulgation by reference of those regulations promulgated under the Federal Act.

Department to have free access to all facilities.

Section 22. The department or its authorized agents shall have free access at all reasonable hours to any factory, warehouse, or establishment in which foods, drugs, devices or cosmetics are manufactured, processed, packed, held for introduction into commerce, or to enter any vehicle being used to transport or hold such foods, drugs, devices, cosmetics in commerce, for the purpose:

(a) of inspecting such factory, warehouse, establishment or vehicle to determine if any of the provisions of this act are being violated, and

(b) to secure samples or specimens of any food, drug, device or cosmetic after paying or offering to pay for such sample. It shall be the duty of the department to make or cause to be made examinations of samples secured under the provisions of this section to determine whether or not any provision of this act is being violated.

Reports and information regarding food, drugs, devices and cosmetics.

Section 23. (a) The department may cause to be published from time to time reports summarizing all judgments, decrees and court orders which have been rendered under this act, including the nature of the charge and the disposition thereof.

(b) The department may also cause to be disseminated such information regarding food, drugs, devices, and cosmetics as the department deems necessary in the interest of public health and the protection of the consumer against fraud. Nothing in this section shall be construed to prohibit the department from collecting, reporting and illustrating the results of the investigations of the department.

HeinOnline -- 1967 vol. II 1079 1967

Hallucinogenic drugs prohibited.

Section 24. **Hallucinogenic drugs — prohibitions.** It shall be unlawful for any person to manufacture, possess, have under his control, sell, purchase, prescribe, administer, dispense or compound any hallucinogenic drug as defined in the present Federal Act unless authorized so to do by the department or under the provisions of the Federal Act.

Violation and penalty.

Section 25. Whoever violates any provision of section 24 shall, upon conviction, be fined not more than one thousand dollars ($1000) and be imprisoned not more than one (1) year. Whoever commits a second violation of any provision of section 24 shall, upon conviction, be fined not less than one thousand dollars ($1000) and be imprisoned not less than five (5) years nor more than ten (10) years.

Severability clause.

Section 26. If any provision of this act is declared unconstitutional or the applicability thereof to any person or circumstances is held invalid, the constitutionality of the remainder of the act and applicability thereof to other persons and circumstances shall not be affected thereby.

Repealing clause.

Section 27. **Repeal.** All acts or parts of acts in conflict herewith are hereby repealed and specifically sections 27-101, 27-102, 27-103, 27-104, 27-105, 27-108, 27-109, 27-110, 27-112, 27-113, 27-115, 27-116, 27-117, 27-118, 27-119, 27-120, 90-301.1, and 90-304, Revised Codes of Montana, 1947.

Approved: March 2, 1967.

CHAPTER 308

An Act to Amend Section 25-501, R.C.M. 1947, and Section 93-303, R.C.M. 1947, as Amended, to Increase Salaries of Elected State Officials, Supreme Court Justices and District Court Judges.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 25-501, R.C.M. 1947, is amended to read as follows:

Salaries of elected state officials.

"25-501. **Salaries of elected state officials.** The annual salaries paid to the various elected officials of the state of Montana shall be as follows:

HeinOnline -- 1967 vol. II 1080 1967

Governor	*$23,250*
Chief justice of the supreme court	*$18,500*
Justices of the supreme court, each	*$17,000*
Attorney general	*$15,500*
State auditor	*$10,500*
Superintendent of public instruction	*$13,750*
Railroad commissioner	*$10,500*
State treasurer	*$10,500*
Secretary of state	*$10,500*
Clerk of the supreme court	*$ 9,000*

Section 2. That section 93-303, R.C.M. 1947, is amended to read as follows: Amending clause.

"93-303. **Salaries of district judges.** The annual salary of each district judge shall be *fifteen thousand dollars ($15,000).*" Salaries of district judges.

Section 3. All acts and parts of acts in conflict herewith are hereby repealed. Repealing clause.

Approved: March 2, 1967.

CHAPTER 309

An Act Amending Section 32-1629, R.C.M. 1947, as Amended, Making the Transportation of Garbage, Refuse and Debris Unlawful Unless the Vehicle in Which Same Is Transported Is Protected to Prevent the Garbage, Debris or Refuse From Being Blown or Removed From the Vehicle While in Transsit and Providing a Penalty.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. 32-1629, R.C.M. 1947, as amended, is amended to read as follows: Amending clause.

"32-1629. **Littering highway as misdemeanor—penalty.** Any person who throws, dumps, deposits or causes to be deposited, any garbage, refuse, waste or litter on the Littering highway a misdemeanor—violation and penalty.

HeinOnline -- 1967 vol. II 1081 1967

right of way of any state highway or interstate highway, is guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of two hundred fifty dollars ($250) or by imprisonment in the county jail for a period not exceeding thirty (30) days, or both such fine and imprisonment in the discretion of the court.

Section 2. It is unlawful for any person or persons transporting garbage, debris or refuse upon any public highway or road of this state to negligently or carelessly allow the same to be blown or otherwise removed from the vehicle in which such garbage, debris or refuse is being transported. Any person found guilty of a violation of this section shall be fined in a sum not exceeding one hundred dollars ($100), or imprisoned in the county jail for a period not exceeding thirty (30) days, or be punished by both the fine and imprisonment, in the discretion of the court."

Approved: March 2, 1967.

CHAPTER 310

An Act Providing for the Burial of Honorably Discharged Military Service Men and Women and Military Service Men and Women Who Died While in Service During a Declared or Undeclared War, or Female Residents of the Montana Veterans' Home; Providing Claimants Shall Be a Relative or Guardian Unless Otherwise Directed; Amending Sections 71-120, 71-121, 71-122, 71-123 and 71-125, R.C.M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 71-120, R.C.M. 1947, is amended to read as follows:

Burial of deceased military service men and women.

"71-120. **Burial of deceased** *military service men and women.* It shall be the duty of the board of commissioners of each county in this state to designate some proper person in the county, who shall be known as veterans' burial supervisor, preferably an honorably discharged *service man or woman,* whose duty it shall be to cause to be decently interred the body of any honorably discharged *service man or woman,* who shall have served in any branch of the armed services of the United States

HeinOnline -- 1967 vol. II 1082 1967

and who may hereafter die *or any service man or woman who died while in service during any declared or undeclared war, or female resident of the Montana veterans' home, who may hereafter die.* Such burial shall not be made in any burial grounds or cemetery, or in any portion of any burial grounds or cemetery, used exclusively for the burial of pauper dead; provided,

(1) the expense of burial shall be the sum of one hundred fifty dollars ($150), to be paid by the county commissioners of the county in which the deceased was an actual bona fide resident at the time of death, and provided

(2) that the benefits hereof shall not be available in the case of any decedent whose executor, administrator or heirs waive the benefits hereof, *and provided*

(3) that the expense of each burial of a female resident of the Montana veterans' home, shall not exceed the sum of one hundred dollars ($100), to be paid by the county commissioners of the county in which the deceased person resided prior to her admittance to the Montana veterans' home.

In the event any such honorably discharged person, male or female, who shall have served in the armed services of the United States, and who is a resident of the state of Montana, shall die while temporarily absent from the state or county of his residence, then the provisions of this act shall apply, and the burial expenses not exceeding the amount herein specified shall be paid in the same manner as above provided.

Whenever any such honorably discharged person, male or female hereinbefore described shall die at any public institution of the state of Montana, other than the state *veterans'* home, and burial for any cause shall not be made in the county of the former residence of the deceased, the officers of said state institution, as aforesaid, shall provide the proper burial herein prescribed except that the expense of each burial shall not exceed the sum herein allowed, which expense shall be paid by the county in which the decedent resided at the time of entry into such institution, but no such burial shall be covered by any special or standing contract whereby the cost of burial is reduced below the maximum hereinbefore fixed, to the disparagement of proper interment."

HeinOnline -- 1967 vol. II 1083 1967

Amending clause.

Section 2. Section 71-121, R.C.M. 1947, is amended to read as follows:

County of residence to bear expense.

"71-121. **County of residence to bear expense.** The expenses of such burial shall be paid by the county in which such *service man or woman dies or if death occurs while in service, the county of his last residency,* but if such deceased person has a residence in another county in this state than the one paying the expenses, the county of his residence shall refund the money advanced by the county where he died. *The claimant shall be a relative or guardian unless otherwise directed.* Expenses of such funeral shall be audited and paid as other expenses are audited and paid by the county."

Amending clause.

Section 3. Section 71-122, R.C.M. 1947, is amended to read as follows:

Person conducting burial to report expense.

"71-122. **Person conducting burial to report expense.** It shall be the duty of the person appointed as provided in section 71-120 to cause such deceased person to be buried as provided in this act, and he shall immediately report his action to the clerk of the board of county commissioners, setting forth all the facts, together with the name, rank, or command, so far as is known, to which the deceased belonged, as such *service man or woman,* the date of death, place of burial, and his occupation while living, and also an itemized statement of the expenses incurred by reason of such burial."

Amending clause.

Section 4. Section 71-123, R.C.M. 1947, is amended to read as follows:

Duty of county clerk.

"71-123. **Duty of county clerk.** It shall be the duty of the clerk of the board of county commissioners, upon receiving the report and statement of expenses provided for in this act, to transcribe, in a book to be kept for that purpose, all the facts contained in such report concerning such *service man or woman.* It shall also be the duty of said clerk, upon receiving the report of the burial of such deceased person, to make application to the proper authorities under the government of the United States for a suitable headstone, as provided by act of congress, and to cause the same to placed at the head of the grave of such *service man or woman,* the expense of which shall not exceed the sum of twenty dollars ($20) for cartage of and properly setting up each stone. The expense thus in-

HeinOnline -- 1967 vol. II 1084 1967

curred shall be audited and paid as provided in section 71-121 for the burial expenses."

Section 5. Section 71-125, R.C.M. 1947, is amended to read as follows: Amending clause.

"71-125. **Act not to apply to nonresidents.** This act shall not apply to *service men and women* who, at the time of their death, shall not have a legal residence within this state." Act not to apply to nonresidents.

Approved: March 2, 1967.

CHAPTER 311

An Act to Remove the Limitation of Two (2) Additional Trustees Which May Be Added in Third Class Districts When Additional Board Members Are to Be Elected; Amending Section 75-4601, R.C.M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 75-4601, R.C.M. 1947, is amended to read as follows: Amending clause.

"75-4601. **High school trustees may undertake public works program—additional trustees—division of taxable valuation—commencement of proceedings—temporary relocation of schoolhouse.** In any county having a high school the board of trustees of the county high school, if there be one, and the boards of trustees of any school districts maintaining district high schools, are hereby designated as the boards of trustees of the respective high school districts established under this act, provided that additional members may be elected to the board of trustees of districts maintaining district high schools in the number and manner as follows: When a majority of the boards of the common school districts in the high school district so request, such requests shall be directed to the county superintendent of schools, who shall proceed as directed in this act. High school trustees may undertake public works program —additional trustees—division of taxable valuation— commencement of proceedings; temporary relocation of schoolhouse.

The taxable valuation of the district in which the high school is located shall be divided by the number of trustees on the high school board. In the case of a first class district this number shall be seven (7), for a second class

HeinOnline -- 1967 vol. II 1085 1967

district five (5), and for a third class district three (3). This figure obtained shall then be divided into the remaining valuation of the high school district, and the resulting number, to the closest whole number, shall be the number of additional board members to be elected; provided, that the number of these additional board members shall not exceed four (4) in districts of the first and second class. *The additional board members in school districts of the third class shall not exceed two (2) except when two-thirds (2/3) or more of the high school enrollment in the high school district resides in the common school districts not maintaining the high school and such common school districts also contain at least two-thirds (2/3) of the taxable valuation of the high school district when three (3) additional trustees shall be elected from the common school districts not maintaining the high school and one (1) additional trustee shall be elected at large in the high school district.*

(a) Following the determination of the number of additional board members to be elected, *excluding the trustee at large,* the county superintendent of schools shall district the territory of the high school district, excluding the common school district wherein the high school is located, into a number of trustee nominating districts equal to the number of additional board members to be elected, and each trustee nominating district so established shall be entitled to one (1) member on the board of trustees of the high school.

The additional trustee to be elected at large shall be placed in a trustee nominating district encompassing the entire high school district including the common school district wherein the high school district is located. Such trustee at large nominating district shall not preclude the creation of other additional trustee nominating districts as herein provided.

The election of the additional trustees shall be held on the first Saturday in April of every year to fill the expired terms of such additional trustees, and the term of office of such additional trustees after the first election of such trustees shall be for three (3) years. *The term of office of the trustee at large shall be three (3) years.*

The additional trustees so elected shall be residents of the respective trustee nominating districts established by

HeinOnline -- 1967 vol. II 1086 1967

the county superintendent of schools, and shall meet the general qualifications for school district trustees provided by section 75-1601, Revised Codes of Montana, 1947.

At the first election the additional trustees elected from the trustee nominating districts established by the county superintendent of schools, if there be more than one *(1)*, shall cast lots to determine the length of time each shall hold office. If there is one (1) additional trustee, he shall hold office for three (3) years. If there are two (2) additional trustees, one *(1)* shall hold office for three (3) years and one *(1)* for two (2) years. If there are three (3) additional trustees, one *(1)* shall hold office for three (3) years, one *(1)* for two (2) years and one *(1)* for one (1) year. If there are four (4) additional trustees, two *(2)* shall hold office for three (3) years, one *(1)* for two (2) years and one*(1)* for one (1) year.

The procedure for calling and holding elections, and for the assumption of office, for the school district wherein the high school is located shall govern the election of the additional trustees herein provided for.

At least twenty (20) days preceding the election, any ten (10) electors of a trustee nominating district established as provided for in this act, who are qualified to vote in the election for such additional trustee, shall file with the district clerk of the school district wherein the high school is located the nomination of any qualified person to be a candidate for such trustee from such nominating district. Ballots for the election of such additional trustees shall be prepared in the same form and manner as ballots are prepared for other trustees, providing that such ballots for additional trustees shall show clearly the trustee nominating district from which each nominee is a candidate.

Any qualified elector of a nominating district, excluding the district where the high school is located, may vote for the additional trustees so nominated, at the time and place of the annual election of school trustees in the common school district in which he is entitled to vote, provided that each elector may vote only for such additional trustee from the trustee nominating district in which he is a qualified elector.

A vacancy in the office of additional trustee shall be filled by appointment by the county superintendent of

HeinOnline -- 1967 vol. II 1087 1967

schools; provided, that such appointment shall be subject to confirmation by a majority of the remaining members of the high school district board including the additional members. The trustee so appointed shall hold office until the next annual election, at which election there shall be elected a trustee from the same nominating district for the unexpired term.

(b) The additional members elected to the board of trustees of districts maintaining high schools, shall take office immediately after qualifying and shall participate on an equal basis with other members in all business transacted by the board of trustees pertaining to the high school maintained by said districts. Said additional elected members shall be entitled to vote on the selection of the district superintendent of schools.

To effectuate the purpose of this act, the board of trustees of any high school district, as herein provided for, is hereby authorized to undertake a program of public works in the construction, improvement or repair of buildings, furnishing and equipping the same and purchasing the necessary land therefor, for the use of any or all high schools in such high school district, and to accept funds from the United States, its instrumentalities or any of its agencies in aid of any one *(1)* or more of such purposes. Such proceedings may be commenced by resolution upon the part of such board of trustees of such high school district of its own motion and without any petition being filed therefor, such proceedings may also be commenced on petition of thirty percent (30%) of the qualified electors of the high school district. Upon presentation of this petition to the high school district board of trustees, the latter shall, within sixty (60) days take steps to present the matter asked for in the petition to a vote of the people of the high school district.

(c) When the board of trustees of a high school district, who have qualified for their positions as such board of trustees under the provisions herein provided, shall find it necessary to temporarily move the site of the schoolhouse to another common school district within the high school district due to the destruction of the school building by fire, flood, storm, riot, insurrection or other act of God, such board of trustees shall continue to hold office for one *(1)* year after such schoolhouse relocation

HeinOnline -- 1967 vol. II 1088 1967

unless the schoolhouse is moved back to the common school district where it was originally located."

Approved: March 2, 1967.

CHAPTER 312

An Act Establishing the Office of State Highway Administrator, Providing for Duties and Removal; Amending Section 32-2501, Revised Codes of Montana, 1947, Enacted as Section 4-201, Chapter 197, Laws of 1965.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 32-2501, Revised Codes of Montana, 1947, enacted as section 4-201, chapter 197, Laws of 1965, is amended to read as follows:

State highway administrator and other employees.

"32-2501. *State highway administrator and other employees.* (1) The commission may appoint *an executive officer* to be known as the *'state highway administrator.'*

(2) The *administrator* shall be solely responsible to the commission and shall be charged with directing operation of the highway department and implementing the policies established by the commission.

(3) The *administrator* shall take and file the constitutional oath of office before entering upon the performance of his duties, and shall give a bond in such sum as the commission may require.

(4) The commission may remove the *administrator* at any time for cause.

(5) Wherever used in these codes the term 'state highway engineer' or 'engineer' shall mean 'state highway administrator'."

Severability clause.

Section 2. The provisions of this act shall be severable and if any of its sections, provisions, exceptions, sentences, clauses, phrases or parts be held unconstitutional or void, the remainder of this act shall continue in full force and effect.

Approved: March 2, 1967.

HeinOnline -- 1967 vol. II 1089 1967

CHAPTER 313

An Act Providing for the Conservation of the Air Resources of the State; Providing for Prevention, Abatement, and Control of Air Pollution; Providing Penalties for Violation; and Repealing Sections 69-3901, 69-3902, and 69-3903, R.C.M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

"Clean Air Act of Montana."

Section 1. **Short title.** This act shall be known and may be cited as the "Clean Air Act of Montana."

Policy and purpose.

Section 2. **Declaration of policy and purpose.** (1) It is hereby declared to be the public policy of this state and the purpose of this act to achieve and maintain such levels of air quality as will protect human health and safety, and to the greatest degree practicable, prevent injury to plant and animal life and property, foster the comfort and convenience of the people, promote the economic and social development of this state and facilitate the enjoyment of the natural attractions of this state.

(2) It is also declared that local and regional air pollution control programs are to be supported to the extent practicable as essential instruments for the securing and maintenance of appropriate levels of air quality.

(3) To these ends it is the purpose of this act to provide for a coordinated statewide program of air pollution prevention, abatement and control; for an appropriate distribution of responsibilities among the state and local units of government; to facilitate cooperation across jurisdictional lines in dealing with problems of air pollution not confined within single jurisdictions; and to provide a framework within which all values may be balanced in the public interest.

Definitions.

"Air contaminant."

Section 3. **Definitions.** As used in this act: (1) "Air contaminant" means dust, fumes, mist, smoke, other particulate matter, vapor, gas, odorous substances, or any combination thereof.

"Air pollution."

(2) "Air pollution" means the presence in the outdoor atmosphere of one or more air contaminants in such quantities and duration as is or tends to be injurious to human health or welfare, animal or plant life, or property, or would unreasonably interfere with the enjoyment of life or property, or conduct of business.

HeinOnline -- 1967 vol. II 1090 1967

(3) "Emission" means a release into the outdoor atmosphere of air contaminants. "Emission."

(4) "Person" means any individual, partnership, firm, association, municipality, public or private corporation, subdivision or agency of the state, trust, estate or any other legal entity. "Person."

(5) "Advisory council" means the air pollution control advisory council created by this act. "Advisory council."

(6) "Director" means the director of air pollution control, a position created by this act. "Director."

(7) "Board" means the state board of health. "Board."

Section 4. **Administration—state board of health.** The state board of health shall have responsibility for the administration of this act and shall appoint a director of air pollution control to assist the board in its administration hereunder. Administration—state board of health.

(1) The director shall be a person with at least two (2) years' experience or training in the field of air pollution control, experienced in administrative work and procedures, and he must be a graduate in engineering, medicine, or in physical, chemical or biological sciences.

(2) The salary of the director will be set and paid by the board.

(3) The powers and duties of the director shall be established and prescribed by the board in its rules, regulations and standards.

(4) The director may delegate to any employee of the board such duties and functions as he deems necessary for the proper and efficient administration of this act, and the director shall have authority, with the approval of the board, to hire additional employees and to discharge same for cause.

Section 5. (1) There is hereby created an air pollution control advisory council. The advisory council shall consist of eleven (11) members as follows: Air pollution control advisory council—members—term—compensation—meetings—secretary—rules and regulations.

The executive officer of the state board of health; and ten (10) members to be appointed by the governor as follows: a representative of labor; a representative of agriculture; a representative of the manufacturing industry; a representative of the fuel industry; a practicing

HeinOnline -- 1967 vol. II 1091 1967

physician licensed in Montana; a practicing veterinarian licensed in Montana; a practicing registered professional chemical or environmental engineer; a meteorologist; a conservationist; and an urban planning consultant. The chairman shall be elected by the advisory council from among this number.

(2) Members are appointed by the governor with the advice and consent of the senate. The terms of members shall be four (4) years except that of the initially appointed members, two (2) shall serve for one (1) year, two (2) shall serve for two (2) years, three (3) shall serve for three (3) years and three (3) shall serve for four (4) years as designated by the governor at the time of making the appointment.

(3) No additional compensation shall be allowed any members of the advisory council for services rendered who are employed by the state government. The ten (10) members appointed by the governor to serve on the advisory council shall each be paid, in addition to actual travel expenses, twenty-five dollars ($25) per day for each day of actual services in the performance of their duties, and all members of the advisory council shall be reimbursed for travel and other necessary expenses incurred in their official duties as members of the advisory council. All expenses of members who are otherwise in the employ of the state government shall be paid from the appropriation to their respective agencies. The expenses and per diem of the members who are appointed by the governor shall be paid from funds made available to the state board of health.

(4) The advisory council shall hold at least two (2) regular meetings each calendar year and shall keep a summary record of its proceedings which shall be open to the public for inspection. Special meetings may be called by the chairman and must be called by him upon receipt of a written request signed by two (2) or more members of the advisory council. Notice of the time and place for all meetings shall be given in advance to each member of the advisory council by the secretary. A majority of the members of the advisory council shall constitute a quorum.

(5) The secretary of the advisory council shall be a member of the staff of the state board of health, desig-

HeinOnline -- 1967 vol. II 1092 1967

nated by the executive officer of the board. The secretary shall keep all records of meetings of, and actions taken by, the council. He shall keep the advisory council advised as to actions taken by persons in response to recommendations and orders issued under authority of this act and shall perform other duties as determined by the advisory council, not inconsistent with rules, regulations, and policies adopted by authority of this act or specific authority otherwise given the advisory council.

(6) The advisory council may consider standards, rules, and regulations as provided in section 10 of this act and any other matter related to the purposes of the act, which may be submitted to it by the board. It may make recommendations to the board on its own initiative concerning the administration of this act.

Powers of board.

Section 6. **Powers of board.** In addition to any other powers conferred on it by law the board shall:

(1) Adopt, amend, and repeal rules implementing and consistent with the provisions of this act.

(2) Hold hearings relating to any aspect of or matter in the administration of this act, at any place or places designated by the board. The board may designate the director as the hearing officer at any hearing set by the board and authorize him to make rulings on evidence and conduct of the hearing. The board or the director as hearing officer may compel the attendance of witnesses and the production of evidence at hearings. The board shall designate an attorney to assist in conducting hearings and shall appoint a reporter who shall be present at all hearings and take full stenographic notes of all proceedings thereat, transcripts of which will be available to the public at cost.

(3) Issue such orders as may be necessary to effectuate the purposes of this act and enforce them by all appropriate administrative and judicial proceedings.

(4) Require access to records relating to emissions.

(5) Secure necessary scientific, technical, administrative, and operational service, including laboratory facilities, by contract or otherwise.

(6) Prepare and develop a comprehensive plan or plans for the prevention, abatement, and control of air pollution in this state.

HeinOnline -- 1967 vol. II 1093 1967

(7) Encourage voluntary cooperation by persons and affected groups to achieve the purposes of this act.

(8) Encourage local units of government to handle air pollution problems within their respective jurisdictions on a cooperative basis, and to provide technical and consultative assistance therefor. If local programs are financed with public funds, the board may contract with the local government to share the cost of the program. However, the state share may not exceed thirty percent (30%) of the total cost.

(9) Encourage and conduct studies, investigations, and research relating to air contamination and air pollution and their causes, effects, preventions, abatement, and control.

(10) Determine by means of field studies and sampling the degree of air contamination and air pollution in the state and the several parts thereof.

(11) Make a continuing study of the effects of the emission of air contaminants from motor vehicles on the quality of the outdoor atmosphere of this state and the several parts thereof, and make recommendations to appropriate public and private bodies with respect thereto.

(12) Establish ambient air quality standards for the state as a whole within ninety (90) days of passage and approval of this act.

(13) Collect and disseminate information and conduct educational and training programs relating to air contamination and air pollution.

(14) Advise, consult, contract, and cooperate with other agencies of the state, local governments, industries, other states, interstate and interlocal agencies, the United States, and any interested persons or groups.

(15) Consult, upon request, with any person proposing to construct, install or otherwise acquire an air contaminant source or device or system for the control thereof, concerning the efficacy of such device or system, or the air pollution problems which may be related to the source, device, or system. Nothing in any such consultation shall be construed to relieve any person from com-

HeinOnline -- 1967 vol. II 1094 1967

pliance with this act, rules in force pursuant thereto, and any other provision of law.

(16) Accept, receive, and administer grants or other funds or gifts from public or private agencies, including the United States, for the purpose of carrying out any of the functions of this act. Funds received by the board pursuant to this section shall be deposited in the state treasury to the account of the board.

Classification and reporting.

Section 7. **Classification and reporting.** (1) The board may classify air contaminant sources which in its judgment may cause or contribute to air pollution according to levels and types of emissions and other characteristics which relate to air pollution, and may require reporting for any such class or classes. Such classifications shall be made with special reference to effects on health, economic and social factors, and physical effects on property, and may be applied to the state as a whole or to any designated area.

(2) Any person operating or responsible for the operation of air contaminant sources of any class for which the rules of the board may require reporting shall make reports containing such information as may be required concerning location, size and height of contaminant outlets, processes employed, fuels used, and the nature and time periods or duration of emissions, and any other matter relevant to air pollution which is available or reasonably capable of being assembled.

Permits.

Section 8. **Permits.** (1) The board may, by rule or regulations, prohibit the installation, alteration, or use of any machine, equipment, device or other article which it finds may cause or contribute to air pollution or which is intended primarily to prevent or control the emission of air pollutants, unless a permit therefor has been obtained from it.

(2) The board may require that applications for such permits shall be accompanied by plans, specifications, and such other information as it deems necessary.

(3) The board shall provide for the issuance, suspension, revocation, and renewal of any permits which it may require pursuant to this section.

(4) If a permit is required, the board must decide within ninety (90) days after receiving application there-

HeinOnline -- 1967 vol. II 1095 1967

for, whether or not the permit will issue. If no decision is rendered within that time, permission shall be deemed to have been granted.

Inspections.

Section 9. **Inspections.** (1) Any duly authorized officer, employee, or representative of the board may enter and inspect, at any reasonable time, any property, premises, or place, except a private residence, on or at which an air contaminant source is located or is being constructed or installed for the purpose of ascertaining the state of compliance with this act and rules in force pursuant thereto.

(2) No person shall refuse entry or access to any authorized representative of the board who requests entry for purposes of inspection, and who presents appropriate credentials. No person shall obstruct, hamper, or interfere with any such inspection.

(3) At his request, the owner or operator of the premises shall receive a report setting forth all facts found which relate to compliance status.

Emissions prohibited.

Section 10. **Emissions prohibited.** (1) The board may establish the limitations of the levels, concentrations, or quantities of emissions of various pollutants from any source necessary to prevent, abate or control air pollution. Except as otherwise provided in or pursuant to this section, such levels, concentrations, or quantities shall be controlling and no emission in excess thereof shall be lawful.

(2) In any area where the concentration of air pollution sources or of population, or where the nature of the economy of or land and its uses so require, the board may fix more stringent requirements governing the emission of air pollutants than those in effect pursuant to subsection (1) of this section.

(3) The board may by rule use any widely recognized measuring system for measuring emission of air contaminants.

(4) Should federal minimum standards of air pollution be set by federal law, the board may, if necessary in some localities of this state, set more stringent standards by rule or regulation.

HeinOnline -- 1967 vol. II 1096 1967

Section 11. **Enforcement.** (1) Whenever the board has reason to believe that a violation of any provision of this act or rule made pursuant thereto has occurred, it may cause written notice to be served upon the alleged violator or violators. The notice shall specify the provision of this act or rule alleged to be violated, and the facts alleged to constitute a violation thereof, and may include an order to take necessary corrective action within a reasonable period of time stated in the order. Any such order shall become final unless, no later than thirty (30) days after the date the notice is received, the person or persons named therein request in writing a hearing before the board. Upon receipt of such request, the board shall hold a hearing. Enforcement.

(2) If, after a hearing held pursuant to subsection (1) of this section, the board finds that a violation or violations have occurred, it shall either affirm or modify any order previously issued, or issue an appropriate order or orders for the prevention, abatement, or control of the emissions involved or for the taking of such other corrective action as it may deem appropriate. If, after hearing on an order contained in a notice the board finds that no violation is occurring, it shall rescind the order. Any order issued as part of a notice or after hearing may prescribe the date or dates by which the violation or violations shall cease and may prescribe time limits for particular action in preventing, abating, or controlling the emissions.

(3) In lieu of issuing the order provided for in subsection (1) of this section, the board may either:

(a) Require that the alleged violator or violators appear before it for a hearing at a time and place specified in the notice, and answer the charges complained of; or

(b) Initiate action pursuant to section 18 of this act.

(4) Nothing in this act shall prevent the board from making efforts to obtain voluntary compliance through warning, conference, or any other appropriate means.

(5) In connection with any hearing held pursuant to this section, the board may, and upon application by any party shall, compel the attendance of witnesses and the production of evidence on behalf of all parties.

HeinOnline -- 1967 vol. II 1097 1967

Emergency procedure.

Section 12. **Emergency procedure.** (1) Any other provisions of law to the contrary notwithstanding, if the director finds that a generalized condition of air pollution exists and that it creates an emergency requiring immediate action to protect human health or safety, the director shall order persons causing or contributing to the air pollution to reduce or discontinue immediately the emission of air contaminants. Upon issuance of any such order, the director shall fix a place and time, not later than twenty-four (24) hours thereafter, for a hearing to be held before the board. Not more than twenty-four (24) hours after the commencement of such hearing, and without adjournment thereof, the board shall affirm, modify, or set aside the order of the director.

(2) In the absence of any such generalized condition as that referred to in subsection (1) of this section, if the director finds that emissions from the operation of one or more air contaminant sources is causing imminent danger to human health or safety, he may order the person or persons responsible for the operation or operations in question to reduce or discontinue emissions immediately, without regard for the provision of section 11 of this act. In such event, the requirements for hearing, and affirmance, modification, or setting aside of orders set forth in subsection (1) of this section shall apply.

(3) Nothing in this section shall be construed to limit any power which the governor or any other officer may have to declare an emergency and act on the basis of such declaration, whether such power is conferred by statute or constitutional provisions or inheres in the office.

Variances.

Section 13. **Variances.** (1) Any person who owns or is in control of any plant, building, structure, process or equipment may apply to the board for an exemption or partial exemption from rules or regulations governing the quality, nature, duration or extent of emissions of air pollutants. The application shall be accompanied by such information and data as the board may require. The board may grant such exemption or partial exemption if it finds that:

(a) The emissions occurring or proposed to occur do not constitute a danger to public health or safety; and

HeinOnline -- 1967 vol. II 1098 1967

(b) Compliance with the rules or regulations from which exemption is sought would produce hardship without equal or greater benefits to the public.

(2) No exemption or partial exemption shall be granted pursuant to this section except after public hearing on due notice and until the board has considered the relative interests of the applicant, other owners or property likely to be affected by the emissions, and the general public.

(3) No exemption or partial exemption pursuant to this section shall be granted for a period to exceed one (1) year, but any such exemption or partial exemption may be renewed for like periods if no complaint is made to the board on account thereof or if, such complaint having been made and duly considered at a public hearing held by the board on due notice, the board finds that renewal is justified. No renewal shall be granted except on application therefor. Any such application shall be made at least sixty (60) days prior to the expiration of the exemption or partial exemption. Immediately prior to application for renewal the applicant shall give public notice of such application in accordance with rules and regulations of the board. Any renewal pursuant to this subsection shall be on the same grounds and subject to the same limitations and requirements as provided in subsection (a) of this section.

(4) An exemption, partial exemption or renewal thereof shall not be a right of the applicant or holder thereof but shall be in the discretion of the board. However, any person adversely affected by an exemption, partial exemption or renewal granted by the board may obtain judicial review thereof as provided by section 14 of this act.

(5) Nothing in this section and no exemption, partial exemption or renewal granted pursuant hereto shall be construed to prevent or limit the application of the emergency provisions and procedures of section 12 of this act to any person or his property.

Hearings and judicial review.

Section 14. **Hearings and judicial review.** (1) No rule and no amendment or repeal thereof shall take effect except after public hearing on due notice, and after the advisory council has been afforded not less than

HeinOnline -- 1967 vol. II 1099 1967

Miscellaneous Water Base Parks (Parks Account No. 418600)	70,000
Acquisition and Development	183,500
Cooney Reservoir (Parks Account No. 418600)	50,000
Elmo State Park (Parks Account No. 418600)	53,750
All monies from this appropriation not required for Cooney Reservoir and Elmo State Park will be available for miscellaneous water based parks. Fish Hatchery — Libby Dam area	750,000
(This is money from the Corps of Engineers to allow payment for construction and operation. This payment is in mitigation for fish losses occasioned by the construction of Libby Dam.)	

HIGHWAY COMMISSION

(1) Land acquisition costs and architect's fees	420,000
Equipment storage buildings, sanding materials storage buildings, weigh stations, sign shop and storage additions	679,824

Section 2. The balance of any appropriation unexpended at the end of the biennium which is not encumbered by purchase order or obligated by other written contract shall revert to the fund from which it was appropriated.

Federal and state money.

Section 3. The expenditure of all federal and private monies available for the above named capital projects may be made upon the approval of the governor of a request submitted to him by the state controller.

Transfer of excess funds.

Section 4. Monies appropriated for one (1) agency project may be used on other projects under the following conditions: (1) Upon award of construction contract for any project named above with the concurrence of the state controller, may request transfer of excess funds appropriated for that project to increase the appropriation of another project within the agency.

Additional funds.

Section 5. In addition to the amounts specifically appropriated by this act, all federal monies and other income

HeinOnline -- 1969 vol. II 1100 1969

to which the state fish and game commission is entitled may be made available by approved budget amendment.

Approved: March 17, 1969.

CHAPTER NO. 374

An Act Appropriating Moneys to the State Controller for State Agencies and Institutions for Capital and Repair Projects for the Biennium Ending June 30, 1971; Authorizing the Sale of Fourteen Million Dollars ($14,000,000) of Building Bonds by the Montana State Board of Examiners; Authorizing the Transfer of the Bond Sale Proceeds to the "Long-Range Building Program Account, Bond Proceeds and Insurance Clearance Fund" and Authorizing the Transfer of $1,525,000 in Federal Funds to the "Long-Range Building Program Account, Bond Proceeds and Insurance Clearance Fund," and Appropriating $1,500,000 for the Purchase of the Highway Commission Land and Building, Capital Complex.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. The following moneys are appropriated for the projects and from the account indicated for the biennium ending June 30, 1971:

Appropriation—projects—account.

	Long-Range Building Program Account Bond Proceeds and Insurance Clearance Fund	Construction Grant Account Federal and Private Revenue Fund
OFFICE OF ADJUTANT GENERAL		
Helena National Guard Armory	$ 110,110	$ 330,192
Shop Addition	20,000	212,000
FISH AND GAME COMMISSION		
Interstate Lake Construction	100,000	100,000

HeinOnline -- 1969 vol. II 1101 1969

Chief Joseph Battlefield	20,000	20,000
Makoshika State Park	30,900	30,900
Indian Caves State Park	12,500	12,500
Beavertail Hill	36,600	36,600
Wayfarer Park	158,800	
(Reimbursement from the Bureau of Outdoor Recreation for the construction of Wayfarer Park in the amount of $79,400 shall be deposited to the "long-range building program account, bond proceeds and insurance clearance fund").		

OFFICE OF STATE FORESTER

Helena District Fire Complex	11,500
Anaconda Fire Headquarters Station	25,825
Water Field Distribution, Nursery Complex	25,000

MONTANA HIGHWAY PATROL

Division Headquarters, Butte	92,000

SCHOOL FOR THE DEAF AND BLIND

New Academic Facility Phase 1	1,254,000
land acquisition and site development	200,000

UNIVERSITY OF MONTANA

New Library Phase 1	2,465,000	1,135,000
Renovation Projects to include renovating old student union building	550,000	

HeinOnline -- 1969 vol. II 1102 1969

MONTANA COLLEGE OF MINERAL SCIENCE AND TECHNOLOGY

Pre-planning and miscellaneous campus projects	50,000	
Remodel Metallurgy Building	72,000	
Fire Control and Campus Improvements	128,000	

MONTANA STATE UNIVERSITY—BOZEMAN

Life Science Complex	3,750,000	
Nursing Building	125,000	250,000
Utility Improvement Extension and Miscellaneous Projects and renovations	200,000	
Life Science Complex federal funds Any federal moneys that may be received either preceding, during or subsequent to the construction of the life science complex building shall be deposited to the "long-range building program account, bond proceeds, and insurance clearance fund."		

NORTHERN MONTANA COLLLEGE

Replace boilers and modify heating control in Cowan Hall	96,000
Miscellaneous renovation and improvements	184,000

EASTERN MONTANA COLLEGE

Land acquisition	200,000
Renovation projects and pre-planning	250,000

HeinOnline -- 1969 vol. II 1103 1969

Education Building	
Phase 1 federal funds	1,400,000
Any federal moneys that may be received either preceding, during, or subsequent to the construction of the education building, phase 1, shall be deposited to the "long-range building program account, bond proceeds and insurance clearance fund."	

WESTERN MONTANA COLLEGE

Renovation and miscellaneous projects	150,000

DEPARTMENT OF INSTITUTIONS
CHILDREN'S CENTER

Bathroom and other miscellaneous projects	20,000

WARM SPRINGS STATE HOSPITAL

New Security Building	700,000
Fire Escapes	45,000
Campus Fire Alarm System	40,250
Enclose internal stairwells	16,650
Elevator	40,000

BOULDER RIVER SCHOOL & HOSPITAL

Campus Fire Alarm and Detection System and blacktopping	70,000
Addition to Dining Room	80,750

CENTER FOR AGED

Blacktopping & Paving, Storage Building for Auxiliary Power	

HeinOnline -- 1969 vol. II 1104 1969

Plant and roof repair to kitchen	7,000	
GALEN		
Renovation projects	124,300	
Renovation for Alcoholic Unit	10,000	
STATE PRISON		
Library Renovation	6,500	
PINE HILLS SCHOOL		
Carbon Hills Watershed Project	95,000	
Vo Tech Building	296,000	
MOUNTAIN VIEW SCHOOL		
New Academic Facility	300,000	
Addition to Intensive Treatment Unit	85,000	
VETERANS' HOME		
Sewage Disposal	55,000	
Nursing Home	158,000	158,000
YELLOWSTONE RIVER RETARDATION UNIT		
Furnishings and Equipment	37,000	
DEPARTMENT OF ADMINISTRATION		
Purchase of highway commission land and building, capital complex	1,500,000	

Federal and private money.

Section 2. In addition to the amounts specifically appropriated by this act, the expenditure of all federal and private moneys available for the above named capital projects may be made upon the approval of the governor of a request submitted to him by the state controller.

Transfer of excess funds.

Section 3. Moneys appropriated for one (1) project may be used on other projects under the following conditions: (1) Upon award of construction contract for

HeinOnline -- 1969 vol. II 1105 1969

any project named above in the university system, the board of regents, with the concurrence of the state controller, may request transfer of excess funds appropriated for that project to increase the appropriation of another project within the university system.

(2) Upon award of construction contract for any project named above under the control of the board of institutions, the board of institutions, with the concurrence of the state controller, may request transfer of excess funds appropriated for that project to increase the appropriation of another project under their supervision.

Limitation on construction awards.

Section 4. No awards for construction shall total more than fifty percent (50%) of the total authorized in any six (6) month period during the 1969-71 biennium.

Authorization for construction.

Section 5. Authorization is hereby made and consent granted for the construction of the following project for the biennium ending June 30, 1971, provided that no appropriated state moneys may be used in financing the construction thereof;

Eastern Montana College
Physical Education Building Addition $800,000

Approved: March 17, 1969.

CHAPTER NO. 375

An Act Authorizing the State Board of Examiners to Borrow Up to Two Million Dollars ($2,000,000) for Land Acquisition for Public Buildings at the State Capitol; for the Reconstruction, Improvement, Remodeling, Repair and Furnishing of the State Capitol Building of the State of Montana at Helena, Montana; for Construction of a Supreme Court and Law Library Building; Providing for the Issuance of Bonds, Indentures and/or Notes; Dedicating Income from Capitol Building Land Grant for Repayment of Loans; Enumerating the Power and Duties of the State Board of Examiners in Carrying Out the Provisions of This Act; and Providing for a Select Committee of the House of Representatives and Senate Relating Thereto.

HeinOnline -- 1969 vol. II 1106 1969

Be it enacted by the Legislative Assembly of the State of Montana:

Land acquisition for public buildings at state capitol.

Section 1. In order to provide for land acquisition for public buildings at the state capitol; the reconstruction, improvement, remodeling, repair and furnishing of the state capitol building of the state of Montana at Helena, Montana; for the construction of a supreme court building and state library building, the state board of examiners of the state of Montana is authorized to borrow sums of money from time to time from the unpledged investment funds available to any state agency or division of government, and to issue bonds, indentures or notes therefor.

Employment of architects and engineers.

Section 2. With the approval of the state board of examiners, the state controller is hereby authorized, directed and empowered to employ an architect or architects, an engineer or engineers for such period of time as he may deem proper for the purpose of making the necessary studies and preparing complete plans and specifications for the purposes set forth in section 1 of this act; to proceed with the reconstruction, improvement, remodeling, repair and furnishing of the state capitol building and to proceed with the construction of the supreme court and law library building. The plans and specifications of said architect or architects, engineer or engineers shall be approved by a select committee comprised of four (4) members of the house of representatives, not more than two (2) from either political party, appointed by the speaker; and four (4) members of the senate, not more than two (2) from either political party, appointed by the committee on committees.

Approval of plans —select committee.

Acquisition of land.

Section 3. The board of examiners and the state controller shall purchase or condemn the lands described in section 1 of this act upon the advice of the select committee. The state board of examiners shall call for bids for the construction of the supreme court building and the state library building, and for the reconstruction, improvement, remodeling, repair, and furnishing of the state capitol building and shall let contracts for the same, all in accordance with the laws of the state of Montana. Said board shall require the contractors to give bonds to the state of Montana in such amounts as the board may determine, conditioned for the faithful performance of their duties and contracts.

HeinOnline -- 1969 vol. II 1107 1969

Amount which can be borrowed.

Section 4. The aggregate amount which the state board of examiners is authorized to borrow under this act for the purposes herein expressed shall not be in excess of the sum of two million dollars ($2,000,000). All monies borrowed or realized from the sale of bonds authorized by this act shall be deposited in the capitol building program account, bond proceeds and insurance clearance fund.

Interest rate of bonds.

Section 5. The bonds, indentures and/or notes issued by the state board of examiners under authority of this act shall not bear interest at a rate in excess of four and one-half percent (4½%) per annum payable semi-annually. They shall bear such date as the state board of examiners shall prescribe, and shall be payable over such period of years, not exceeding twenty-five (25), as said board may specify. All bonds, indentures and/or notes shall be optional and redeemable at any time after the date of issue, at the option of the state board of examiners. Said bonds, indentures and/or notes shall be in such denominations and sums and shall contain such recitals as the state board of examiners may determine, shall be signed by the governor, the attorney general, and the secretary of state as members of said board, and shall be paid at the office of the state treasurer of the state of Montana. Coupons attached to any such bonds may bear the facsimile signature of the members of said board.

Sale of bonds.

Section 6. Said bonds, indentures and/or notes shall be sold by the state board of examiners at such time and in such manner as the board shall deem best to carry out the provisions of this act; provided that none of such bonds shall be sold for less than par, plus accrued interest to the date of delivery of the bonds. Each of said bonds, indentures and/or notes shall be registered before delivery with the state treasurer of the state of Montana, who shall keep accurate accounts of payments of interest and principal upon said bonds, indentures and/or notes.

Funds available to pay bonds.

Section 7. The principal and interest of the bonds, indentures and/or notes authorized by this act shall be payable out of the following fund and from it only: As much as may be necessary from the income received subsequent to January 1, 1970, from the capitol building land

HeinOnline -- 1969 vol. II 1108 1969

grant shall be, and the same is hereby dedicated and appropriated for the repayment of the principal and interest of the bonds, indentures and/or notes provided for by this act.

Funding.

Section 8. To provide for the payment of the interest and principal of the bonds, indentures and/or notes authorized by this act, all the sums of money hereinbefore dedicated and appropriated to the payment of the principal and interest of said bonds, indentures and/or notes shall be paid and deposited in the sinking fund in the state treasury.

Exempt from budget act.

Section 9. The appropriation herein provided for shall be deemed and held valid notwithstanding the provisions of the budget act.

Severability clause.

Section 10. Every section of this act and every part of each section is hereby declared to be independent of each other, and the holding of any section or part hereof to be void or ineffective for any cause shall not be deemed to affect any other section or part hereof.

Approved: March 17, 1969.

CHAPTER NO. 376

An Act to Create a Legislative Fiscal Review Committee for the Study of State Government Fiscal Matters; Specifying an Immediate Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Legislative fiscal review committee.

Section 1. There is hereby created a legislative fiscal review committee which shall consist of four (4) members of the house of representatives appointed by the speaker, no more than two (2) of whom shall be of the same political party; and four (4) members of the senate appointed by the committee on committees, no more than two (2) of whom shall be of the same political party. The first members of the legislative fiscal review committee shall be appointed not later than the sixtieth (60th) legislative day of the forty-first (41st) legislative session. New members of the committee shall be appointed not later than the sixtieth (60th) legislative day of each suc-

HeinOnline -- 1969 vol. II 1109 1969

ceeding session. Any vacancy occurring when the legislative assembly is not in session shall be filled by the selection of another member of the legislature by the remaining members of the committee.

Duties.

Section 2. The legislative fiscal review committee shall accumulate, compile, analyze, and furnish such information bearing upon the financial matters of the state as the legislative assembly, or the committee by its own initiative, shall determine relevant to issues of policy and questions of state-wide importance, including, but not limited to, investigation and study of the possibilities of effecting economy and efficiency in state government. The committee may also conduct studies inquiring into the financial administration of state government and any of its agencies, including problems of assessment and collection of taxes, and all other matters pertaining to the fiscal functions of all agencies and branches of state government.

Powers.

Section 3. The legislative fiscal review committee may:

(1) employ the services of any research agency deemed necessary to the discharge of the committee's duties;

(2) appoint special subcommittees composed of legislators, private citizens, or both to study and inquire into any specific governmental problems, however, the work of subcommittees shall be performed under the supervision of the committee;

(3) estimate revenue from existing and proposed taxes;

(4) review the executive budget and budget requests of each state agency and institution including proposals for the construction of capital improvements;

(5) make recommendations it deems desirable to the legislative assembly;

(6) assist committees of the legislative assembly, and individual legislators, in compiling and analyzing financial information.

Authority.

Section 4. The legislative fiscal review committee has authority to investigate and examine into the costs of state government activities and may examine all records, books, and files of any department, agency, commission, board, or institution of the state of Montana.

HeinOnline -- 1969 vol. II 1110 1969

Hearings—authority.

Section 5. In the discharge of its duties, the legislative fiscal review committee shall have authority to hold hearings, administer oaths, issue subpoenas, compel the attendance of witnesses, and the production of any papers, books, accounts, documents and testimony, and to cause depositions of witnesses to be taken in the manner prescribed by law in civil actions in the district court. In case of disobedience on the part of any person to comply with a subpoena issued on behalf of the committee, or of the refusal of any witness to testify on any matter regarding which he may be lawfully interrogated, it shall be the duty of the district court of any county or the judge thereof, on application of the legislative fiscal review committee, to compel obedience by proceedings for contempt as in the case of disobedience of the requirements of a subpoena issued from the court on a refusal to testify therein.

Compensation.

Section 6. Members of the legislative fiscal review committee and its subcommittees shall be reimbursed for actual travel and other expenses incurred in the discharge of their duties, and may also receive per diem payments as authorized by law.

Organization.

Section 7. The legislative fiscal review committee shall organize within thirty (30) days after the passage and approval of this act by electing one (1) of its members as chairman and by the election of other officers from the membership of the committee as it may deem desirable. The committee is empowered to adopt rules of procedure and to make all arrangements for its meetings to carry out the purposes for which it is created. The committee shall keep an accurate record of its activities and proceedings.

Specialists.

Section 8. A fiscal analyst and other necessary staff shall be assigned to the committee by the legislative council. The council shall fix the salaries and define the duties of all the staff personnel.

Effective immediately.

Section 9. This act is effective upon its passage and approval.

Approved: March 19, 1969.

HeinOnline -- 1969 vol. II 1111 1969

CHAPTER NO. 377

An Act to Provide for the Issue and Sale by the State Board of Examiners of Bonds in a Sum Not Exceeding $4,675,077 for the Purpose of Acquiring a Necessary Site for and Erecting and Equipping a State Highway Commission Headquarters Building and Complex; Providing That Said Bonds Shall Be Payable Solely From Net Proceeds From Gasoline Taxation; Pledging and Appropriating a Portion of Such Net Proceeds to a Special Sinking Fund Account; and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Issuance and sale of bonds by state board of examiners.

Section 1. The state board of examiners of the state of Montana is hereby authorized to issue and sell bonds for the purpose of acquiring a suitable site for, and erecting, and equipping, a state highway commission headquarters building and complex at or near Helena, Montana, to replace the present shops, storage and administration buildings which are hereby declared to be inadequate for such purpose. All bonds issued hereunder shall contain a statement that they are not and shall never become a debt or liability of the state of Montana within the meaning of any constitutional or statutory limitation or provision, and that no ad valorem tax may be levied upon property within the state of Montana to pay principal thereof or interest thereon, but that the bonds and interest are payable solely from that portion of the net proceeds from the taxation of gasoline pledged and appropriated to the sinking fund account as provided in this act, and shall contain the pledge of the state of Montana to continue to apply such net proceeds to the retirement of said bonds and the payment of interest thereon.

State highway commission building.

Section 2. Upon the sale of the bonds, the state controller, acting under the supervision and with the approval of the board of examiners, as provided in chapter 33 of title 82 of the Revised Codes of Montana 1947, is hereby empowered and directed to acquire a site for and to proceed with the erection and equipping of a building of suitable construction and design for use as a headquarters building and necessary supporting structures for shops and storage for the state highway commission of Montana.

HeinOnline -- 1969 vol. II 1112 1969

Bonding amount authorized.

Section 3. The aggregate amount of bonds authorized by this act for the purpose herein expressed, shall not exceed the sum of four million six hundred seventy-five thousand seventy-seven dollars ($4,675,077).

Bonds—form and denomination.

Section 4. Such bonds shall be issued by the board, upon request of the controller, in such denominations and form, whether payable to bearer or registered as to principal or both principal and interest, with such provisions for conversion or exchange and for the issuance of notes in anticipation of the execution and delivery of definitive bonds, bearing interest at such rate or rates not exceeding five and one-half per centum (5½%) per annum, maturing at such times not exceeding twenty (20) years from date of issue, subject to redemption at such earlier times and prices and upon such notice, and payable at the office of such fiscal agent of the state of Montana, as the board shall determine, subject to the limitations contained herein.

Same—fiscal agent.

Section 5. In all other respects, the board is authorized to prescribe the form and terms of the bonds, and shall do whatever is lawful and necessary for their issuance and payment. The board is hereby authorized to employ a fiscal agent to assist it in the performance of its duties hereunder. Such bonds and any interest coupons appurtenant thereto shall be signed by the members of the state board of examiners, and the bonds shall be issued under the great seal of the state of Montana. The bonds and coupons may be executed with facsimile signatures and seal in the manner and subject to the limitations prescribed by law. The state treasurer shall keep a record of all such bonds issued and sold.

Proceeds—disposition.

Section 6. All proceeds of bonds issued hereunder shall be deposited in a separate subfund which is created within the bond and insurance clearance fund established by section 79-410, R.C.M. 1947, and shall be segregated by the treasurer from all other money in that or any other fund in the state treasury and used only to pay costs of acquiring land for and erecting and equipping the buildings herein referred to, upon order of the controller acting within the limits of the authority conferred upon him by the legislative assembly and said proceeds are hereby appropriated for the purposes of the capital items herein described.

HeinOnline -- 1969 vol. II 1113 1969

Sinking fund account.

Section 7. (a) The state hereby pledges and appropriates and directs to be credited as received to the sinking fund account, as herein defined, that portion of the net proceeds from the collection of gasoline taxes as may from time to time be needed to comply with the principal and interest and reserve requirements stated in subsection (b) of this section. The pledge and appropriation herein made shall be and remain at all times a first and prior charge upon all money received as net proceeds from the collection of gasoline taxation. The term "sinking fund account", as used herein, means a separate subfund which is created within the sinking fund established by section 79-410, R.C.M. 1947, and shall be segregated by the treasurer from all other money in that or any other fund in the treasury and used only to pay such bonds and interest thereon when due, so long as any such bonds or interest remain unpaid.

(b) Money in the sinking fund account shall be used first, to pay interest and principal when due on the bonds issued pursuant to this act; second, to accumulate a reserve in the amount required below, for the further security of such payments; and third, to maintain this reserve in an amount at least equal, after each interest and principal payment, to one and one-half times the maximum amount of interest and principal which will become due on all such bonds which are then outstanding in any subsequent fiscal year.

(c) Money at any time received in the sinking fund account in excess of the principal, interest and reserve requirements stated in subsection (b) shall be transferred by the treasurer to the earmarked revenue fund—highway account. If the balance at any time on hand in the sinking fund account is not sufficient for compliance with subsection (b), the treasurer shall credit to said account an amount sufficient to restore said balance from the next receipts of net proceeds from the collection of gasoline taxes.

Effective immediately.

Section 8. This act shall be in force and effect from and after its passage and approval.

Approved: March 19, 1969.

HeinOnline -- 1969 vol. II 1114 1969

CHAPTER NO. 378

An Act Appropriating Forty-Five Thousand Dollars ($45,000) From the Agricultural Experiment Account 2115 in the Earmarked Revenue Fund to the Board of Examinineers for the Biennium Ending June 30, 1971, for the Acquisition of Real Property; Appropriating as Much as May Be Necessary From the Agricultural Experiment Station Account 2115 in the Earmarked Revenue Fund to the Board of Examiners for Interest and Other Costs to the Purchaser for the Acquisition of Real Property; Authorizing the Board of Examiners to Enter into Contracts for Deed to Approximately 93.69 Acres of Land in Gallatin County and Approximately 150 Acres of Land in Flathead County.

Be it enacted by the Legislative Assembly of the State of Montana:

Appropriation—purpose.

Section 1. Forty-five thousand dollars ($45,000) is appropriated from the agricultural experiment station account 2115 in the earmarked revenue fund to the board of examiners for the biennium ending June 30, 1971, for the acquisition of real property as provided in this act.

Acquisition of real property.

Section 2. In addition to the amount appropriated by section 1 of this act, as much as may be necessary for the payment of interest and other costs to the purcaser for the acquisition of real property as provided in this act is appropriated from the agricultural experiment station account 2115 in the earmarked revenue fund to the board of examiners for the biennium ending June 30, 1971.

Same—description—cost.

Section 3. The board of examiners is authorized to enter into a contract for deed to property in Gallatin County comprised of approximately 93.69 acres presently leased by Montana state university from Peter M. and Mabel B. Hansen under a lease agreement entered into March 1, 1968. The total purchase price of this property shall not exceed forty-eight thousand three hundred dollars ($48,300) and the contract may specify that a principal payment of not more than fourteen thousand seven hundred dollars ($14,700) shall be due on July 1, 1969, and a principal payment of not more than seventeen thousand one hundred forty-seven dollars ($17,147) shall be due on July 1, 1970. Interest due on the principal and other

HeinOnline -- 1969 vol. II 1115 1969

costs to the purchaser shall be paid from the amount appropriated by section 2 of this act.

Same—description—cost.

Section 4. The board of examiners is authorized to enter into a contract for deed to property in Flathead county comprised of approximately 150 acres including 78 acres now leased by Montana state university from Milo C. and Edith Z. Roberts and 72 acres adjoining the leased land owned by Milo C. and Edith Z. Roberts. The total purchase price shall not exceed sixty-eight thousand dollars ($68,000), and the contract may provide for ten (10) annual principal payments of equal amounts. Interest due on the unpaid principal and other costs to the purchaser shall be paid from the amount appropriated by section 2 of this act.

Effective immediately.

Section 5. Sections 3 and 4 of this act are effective upon passage and approval.

Approved: March 19, 1969.

HeinOnline -- 1969 vol. II 1116 1969

APPROPRIATIONS AND RESOLUTIONS

ENACTED BY THE

Forty-first Legislative Assembly

STATE OF MONTANA

1969

HeinOnline -- 1969 vol. II 1117 1969

HeinOnline -- 1969 vol. II 1118 1969

APPROPRIATIONS AND RESOLUTIONS

HOUSE BILL NO. 1

An Act Appropriating Money for the Operation of the Forty-first Legislative Assembly.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Seven hundred fifty thousand dollars ($750,000) is appropriated from the general fund for the operation of the forty-first legislative assembly.

Section 2. This act is effective on passage and approval.

Approved: January 10, 1969.

HOUSE BILL NO. 4

An Act Appropriating Five Thousand Dollars ($5,000) to the Legislative Council to Reimburse Members of the Legislative Assembly for Expenses in Attending a Meeting of the Western Conference of the Council of State Governments to be Held in Glacier Park in 1969.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. There is appropriated to the legislative council from the general fund to reimburse members of the legislative assembly for expenses in attending a meeting of the western conference of the council of state governments to be held in Glacier Park in 1969, five thousand dollars ($5,000).

Section 2. Each legislator attending the meeting of the western conference of the council of state governments shall be reimbursed for the registration fee and an amount, not to exceed twenty-five dollars ($25), as reimbursement for other expenses.

Approved: February 3, 1969.

HOUSE BILL NO. 5

An Act Appropriating Sixteen Thousand Six Hundred Fifty Dollars ($16,650) for State of Montana Dues to the Council of State Governments for the 1969-1971 Biennium.

HeinOnline -- 1969 vol. II 1119 1969

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. There is appropriated to the legislative council from the general fund for the payment of state of Montana dues to the council of state governments for the biennium ending June 30, 1971, sixteen thousand six hundred fifty dollars ($16,650).

Approved: January 24, 1969.

HOUSE BILL NO. 33

An Act Appropriating Moneys for the Operation of the Legislative Council for the Biennium Ending June 30, 1971.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. The following amounts are appropriated from the general fund to the legislative council for the biennium ending June 30, 1971:

Legislative research, one hundred twenty thousand dollars $120,000

Legislative services, thirty thousand dollars ..... $ 30,000

Approved: March 17, 1969.

HOUSE BILL NO. 48

An Act Appropriating Moneys for the Biennium Ending June 30, 1969 to the Department of Administration to Complete the Addition to the Veterans' Pioneer Memorial Building.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Seventy-five thousand seven hundred eighty-five dollars ($75,785) is appropriated from the long range building program account in the bond proceeds and insurance clearance fund to the department of administration for the biennium ending June 30, 1969 for the completion of the addition to the veterans' pioneer memorial building.

Section 2. This act is effective upon its passage and approval.

Approved: January 24, 1969.

HeinOnline -- 1969 vol. II 1120 1969

HOUSE BILL NO. 81

An Act to Appropriate $2,500 From the General Fund to the State Fish and Game Commission for the Biennium Ending June 30, 1971 for the Purpose of Developing a Comprehensive Statewide Plan for the Preservation of Historic Sites.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. There is appropriated from the general fund the sum of twenty-five hundred dollars ($2,500) to the state fish and game commission for the biennium ending June 30, 1971 for the purpose of developing a comprehensive statewide plan for the preservation of historic sites.

Approved: February 27, 1969.

HOUSE BILL NO. 112

An Act Appropriating Moneys for the Operation of the Legislative Audit Committee for the Biennium Ending June 30, 1971.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. There is appropriated four hundred three thousand six hundred thirty-eight dollars ($403,638) from the geneeral fund to the legislative audit committee for the biennium ending June 30, 1971.

Approved: February 24, 1969.

HOUSE BILL NO. 319

An Act Appropriating Twenty-four Thousand Dollars ($24,000) From the General Fund to the State Board of Equalization for the Fiscal Period Ending June 30, 1969, for Operation and Capital Expenses.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Twenty-four thousand dollars ($24,000) is appropriated from the general fund to the state board of equalization for the fiscal period ending June 30, 1969, for operation and capital expenses.

Section 2. This act is effective on its passage and approval.

Approved: February 24, 1969.

HeinOnline -- 1969 vol. II 1121 1969

HOUSE BILL NO. 369

An Act Appropriating Moneys for the Biennium Ending June 30, 1969, to the Department of Administration to Complete the New Facility at the Montana Veterans' Home.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Twenty-seven thousand nine hundred seventy dollars ($27,970) is appropriated from the long-range building program account in the bond proceeds and insurance clearance fund to the department of administration for the biennium ending June 30, 1969, for the completion of the new facility at the Montana veterans' home.

Section 2. This act is effective upon its passage and approval.

Approved: March 14, 1969.

HOUSE BILL NO. 544

An Act to Appropriate Five Hundred Thirteen Dollars Seventy-four Cents ($513.74) From the General Fund as an Unsettled Claim to Reimburse the Boulder River School and Hospital for a Loss Incurred by Theft; Specifying an Immediate Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. There is appropriated from the general fund five hundred thirteen dollars seventy-four cents ($513.74) to reimburse the Boulder River School and Hospital for a loss by theft.

Section 2. This act is effective on passage and approval.

Approved: February 13, 1969.

HOUSE BILL NO. 582

An Act Appropriating Six Thousand Dollars ($6,000) From the Highway Account in the Earmarked Revenue Fund to the Highway Commission to Reimburse Members of the Legislative Interim Committee on Highways for Expenses Incurred in a Study of the Highway Commission During the 1967-1968 Interim.

HeinOnline -- 1969 vol. II 1122 1969

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Six thousand dollars ($6,000) is appropriated from the highway account in the earmarked revenue fund to the highway commission to reimburse members of the legislative interim committee on highways, created by extraordinary house bill No. 14 of the 1967 legislative session, for expenses incurred in a study of the highway commission during the 1967-1968 interim. Members of the legislative interim committee shall submit claims for expenses to be paid by the highway commission.

Section 2. This act is effective upon its passage and approval.

Approved: February 24, 1969.

HOUSE BILL NO. 583

An Act to Appropriate all Monies Remaining in the University 1949 Building Bond Sinking Account and all Monies to be Deposited in That Account in the Sinking Fund, After all Outstanding Bonds Have Been Redeemed and all Expenses of Liquidating the Bonds Have Been Paid, From That Account in the Sinking Fund to the School Equalization Aid Account in the Earmarked Revenue Fund; Amending Section 6, Chapter 249, Laws of 1947, to Authorize the Appropriation.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. After all outstanding university 1949 building bonds have been redeemed and all expenses incurred in liquidating the bonds have been paid, all monies remaining in the university 1949 building bond sinking account or monies to be deposited in that account in the sinking fund are appropriated from that account in the sinking fund to the school equalization aid account in the earmarked revenue fund.

Section 2. Section 6, chapter 249, laws of 1947, is amended to read as follows:

"Section 6. There shall be levied annually upon all property of the State of Montana subject to taxation ad valorem tax upon each dollar of the taxable valuation of such property sufficient to pay the interest accruing on said bonds as such interest shall fall due, and the payment of the bonds as they serially become due, said levy, however, not to exceed two and one-half (2½) mills per annum, until the indebtedness herein provided for shall have been fully paid and discharged. The tax when collected by

HeinOnline -- 1969 vol. II 1123 1969

the county treasurers of the several counties of the state shall be by them accounted to and paid into the state treasury of the State of Montana, and by the state treasurer placed in the 'university of Montana building bond interest and redemption fund' which fund shall be used exclusively for the payment of principal and interest on said bonds as the same become due, *except that any amount remaining after all bonds have been redeemed and all costs of liquidating the bonds have been paid shall be placed in the school equalization aid account in the earmarked revenue fund.*"

Approved: February 27, 1969.

HOUSE BILL NO. 590

An Act to Appropriate Money for the Licensing and Examining Boards and Commissions of the State Government for the Biennium Ending June 30, 1971, and Providing Other Matters Properly Relating Thereto.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. For the purposes of this act, unless otherwise stated:

(1) The term "operation" means all expenditures for personal services, all ordinary and necessary expenditures for the operation of the agency to which the appropriation applies, and repairs and maintenance.

(2) The term "repairs and maintenance" means repairs to equipment and the cost of replacement of parts of equipment, repairs to buildings and to plumbing, heating, wiring, and air-conditioned systems in buildings occasioned by ordinary wear and tear or by technical damage, and the cost of painting the exteriors and interiors of buildings. Major alterations of existing buildings are capital expenditures and are not repairs and maintenance.

(3) The term "capital" means those items which do not lose their identity, which are adaptable to continuing use and have a useful life of more than one (1) year. Capital shall be charged with the replacement of existing capital items, as well as new acquisitions.

(4) The term "approved budget amendment" means a request approved by the governor submitted to him through the budget director.

Section 2. (1) The appropriations contained in this act are intended to provide only necessary and ordinary expenditures for

HeinOnline -- 1969 vol. II 1124 1969

the year for which the appropriations were made. The unexpended balance of any appropriation shall revert to the fund from which it was appropriated at the end of each fiscal year, except amounts encumbered by purchase order. However, in case of necessity, an appropriation not expended during the first fiscal year of the biennium may be expended during the second fiscal year by an approved budget amendment.

(2) It shall be unlawful to purchase any article or service for a succeeding biennium with an appropriation contained in this act.

Section 3. The following moneys are appropriated for the biennium ending June 30, 1971:

	For the Fiscal Year Ending June 30, 1970	For the Fiscal Year Ending June 30, 1971
ABSTRACTERS BOARD OF EXAMINERS		
(1) From the earmarked revenue fund, abstracters' board account, for:		
(a) operation and capital	$ 486	$ 486
BOARD OF ARCHITECTURAL EXAMINERS		
(1) From the earmarked revenue fund, architectural examiners' account, for:		
(a) operation and capital	6,104	5,963
ATHLETIC COMMISSION		
(1) From the earmarked revenue fund, veterans' memorial account, for:		
(a) operation and capital	980	980
BOARD OF BARBER EXAMINERS		
(1) From the earmarked revenue fund, barber examiners' account, for:		
(a) operation and capital	8,479	8,483
BOARD OF CHIROPRACTIC EXAMINERS		
(1) From the earmarked revenue fund, chiropractic examiners' account, for:		
(a) operation and capital	3,935	4,000

HeinOnline -- 1969 vol. II 1125 1969

EXAMINING BOARD OF COSMETOLOGY

(1) From the earmarked revenue fund, cosmetology board account, for:

(a) operation and capital 30,315 31,461

BOARD OF DENTAL EXAMINERS

(1) From the earmarked revenue fund, dental examiners' account, for:

(a) operation and capital 5,802 5,096

ELECTRICAL BOARD

(1) From the earmarked revenue fund, electrical board account, for:

(a) operation and capital 95,752 97,102

BOARD OF FOOD DISTRIBUTORS

(1) From the earmarked revenue fund, food distributors' account, for:

(a) operation and capital 27,000 27,000

HORSE RACING COMMISSION

(1) From the earmarked revenue fund, horse racing commission account, for:

(a) operation and capital 25,200 24,900

BOARD OF MASSAGE EXAMINERS

(1) From the earmarked revenue fund, massage examiners' account, for:

(a) operation and capital 3,000 3,065

BOARD OF MEDICAL EXAMINERS

(1) From the earmarked revenue fund, medical board account, for:

(a) operation and capital 18,717 18,887

BOARD OF MORTICIANS

(1) From the earmarked revenue fund, morticians' board account, for:

(a) operation and capital 4,747 4,770

HeinOnline -- 1969 vol. II 1126 1969

BOARD OF NURSING		
(1) From the earmarked revenue fund, board of nursing account, for:		
(a) operation and capital	54,229	57,119
BOARD OF EXAMINERS IN OPTOMETRY		
(1) From the earmarked revenue fund, optometry examiners' account, for:		
(a) operation and capital	3,895	3,920
BOARD OF OSTEOPATHIC EXAMINERS		
(1) From the earmarked revenue fund, osteopathic examiners' account, for:		
(a) operation and capital	300	300
BOARD OF PHARMACY		
(1) From the earmarked revenue fund, pharmacy board account, for:		
(a) operation and capital	17,284	17,733
BOARD OF PLUMBING EXAMINERS		
(1) From the earmarked revenue fund, plumbing examiners' account, for:		
(a) operation and capital	33,400	35,000
BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS		
(1) From the earmarked revenue fund, professional engineers' account, for:		
(a) operation and capital	16,093	15,931
REAL ESTATE COMMISSION		
(1) From the earmarked revenue fund, real estate account, for:		
(a) operation and capital	47,900	49,400
SANITARIANS' REGISTRATION COUNCIL		
(1) From the earmarked revenue fund, sanitarians' registration account, for:		
(a) operation and capital	200	200

HeinOnline -- 1969 vol. II 1127 1969

BOARD OF VETERINARY MEDICAL EXAMINERS		
(1) From the earmarked revenue fund, veterinary medical examiners' account, for:		
(a) operation and capital	1,575	1,575
BOARD OF CERTIFICATION FOR WATER AND WASTE WATER OPERATORS		
(1) From the earmarked revenue fund, water and waste water operators certification examining board account, for:		
(a) operation and capital	6,269	6,864
WATER WELL CONTRACTORS' EXAMINING BOARD		
(1) From the earmarked revenue fund, water well contractors' account, for:		
(a) operation and capital	5,109	5,212

Section 4. Additional moneys in these accounts may be made available by approved budget amendment.

Section 5. It is the intent of the legislative assembly that if a part of this act is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this act is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Approved: February 27, 1969.

HOUSE BILL NO. 596

An Act to Appropriate Monies to Certain State Institutions for the Biennium Ending June 30, 1971.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. For the purposes of this act, unless otherwise stated:

(1) The term "operation" means all ordinary and necessary expenditures for operation of the institution to which the approp-

HeinOnline -- 1969 vol. II 1128 1969

riation applies, and repairs and maintenance, but does not include personal services.

(2) The term "personal services" means all salaries and wages of full-time, part-time, and temporary employees of the state and includes the state's contribution for social security, employees' retirement, industrial accident insurance, and any authorized health insurance. Employee's annual salary increases for the fiscal year ending June 30, 1970, shall not exceed 5 percent of the annual salary received during the fiscal year ending June 30, 1969, unless promoted to a position with additional responsibility, duties, or both, but in no case shall employees' salary be less than $312 per month. Employees' annual salary increases for the fiscal year ending June 30, 1971, shall not exceed 5 percent of the annual salary received during the fiscal year ending June 30, 1970, unless promoted to a position with additional responsibility, duties, or both.

(3) The term "repairs and maintenance" means repairs to equipment and the cost of replacing parts of equipment, repairs to buildings and to the plumbing, heating, wiring and air-conditioning systems in buildings, occasioned by ordinary wear and tear or by physical damage, and the cost of painting the exteriors and interiors of buildings. Major alterations of existing buildings are capital expenditures and are not repairs and maintenance.

(4) The term "capital" means those items which do not lose their identity, which are adaptable to continuing use and have a useful life or more than one (1) year. Capital shall include the replacement of existing capital assets, as well as new acquisitions, but does not include expenditures for the construction, improvement, betterment, or furnishing of buildings, structures, or purchase of buildings or land unless specifically auhorized.

(5) The term "grants and benefits" means expenditures for grants to political subdivisions, associations, or individuals, and includes, but is not limited to retirement and disability compensaton, and unemployment benefits.

(6) The term "approved budget amendment" means approval of a request by the governor submitted to him through the budget director. An informational copy of each request for a budget amendment shall be filed with the legislative fiscal analyst.

Section 2. (1) The appropriations contained in this act are intended to provide only necessary and ordinary expenditures for the year for which the appropriations were made. The unex-

HeinOnline -- 1969 vol. II 1129 1969

pended balance of any appropriation shall revert to the fund from which it was appropriated at the end of each fiscal year, except amounts encumbered by purchase order. However, in case of necessity, an appropriation not expended during the first fiscal year of the biennium may be expended during the second fiscal year if authorized by the governor by an approved budget amendment.

(2) It shall be unlawful to purchase any article or service for a succeeding biennium with an appropriation contained in this act.

(3) Any monies appropriated for budgeted positions that are not filled shall not be used for salary increases but shall revert to the fund from which appropriated.

Section 3. Unless otherwise provided in this act, all monies received or collected from any source whatsoever by the institutions named in this act shall be deposited in the state treasury and credited to the proper fund.

Section 4. The salary of the chief administrator of each institution shall be determined by the appointing authority in accordance with the statutory provisions and, in no case, shall the salary determined exceed the amounts set out in this act for the agency.

Section 5. In addition to the appropriations contained in this act, all other monies received from all other sources may be made available by an approved budget amendment.

Section 6. No institution shall establish new programs or expand existing programs beyond the scope of the programs already established, recognized and approved by the legislature in the review of the 1971 biennial budget, until such program and the method of financing shall be presented to the governor through the budget director, for approval.

Section 7. Where the operation of an institution is financed by an appropriation or appropriations from the general fund as well as by funds from other sources, the portion provided by appropriation from the general fund shall be decreased to the extent that the receipt of the funds from other sources approved by the legislature in the review of the 1971 biennial budget are exceeded, provided that:

(1) Such decrease shall not jeopardize the receipt of such funds to be received from other sources; and

HeinOnline -- 1969 vol. II 1130 1969

(2) This section shall not apply to any fund if such excess receipts are to be expended for a purpose or purposes approved by the governor, upon a request submitted to him, through the budget director.

Section 8. Transfers of appropriated funds between programs of an institution may be made only by an approved budget amendment.

Section 9. The following monies are appropriated for the biennium ending June 30, 1971:

	For the Fiscal Year Ending June 30, 1970	For the Fiscal Year Ending June 30, 1971
DEPARTMENT OF INSTITUTIONS		
(1) From the General Fund for:		
Administration		
(a) Personal Services	$ 87,748	$ 91,354
(b) Operation and Capital	51,600	42,968
Reimbursement		
(a) Personal Services	52,454	55,107
(b) Operation and Capital	24,348	21,392
Aftercare		
(a) Personal Services	93,070	97,848
(b) Operation and Capital	93,807	90,102
(c) Operation of Group Home	44,500	32,500
Board		
(a) Operation	6,033	6,070
(2) The head of this agency shall not receive a salary in excess of $21,000 for the fiscal year ending June 30, 1970; and $22,000 for the fiscal year ending June 30, 1971.		
BOULDER RIVER SCHOOL AND HOSPITAL		
(1) From the General Fund for:		

HeinOnline -- 1969 vol. II 1131 1969

Administration		
(a) Personal Services	124,604	130,692
(b) Operation and Capital	27,658	29,757
Care and Custody		
(a) Personal Services	2,061,135	2,165,594
(b) Operation and Capital	322,514	322,539
General Services and Physical Plant		
(a) Personal Services	184,140	201,086
(b) Operation and Capital	194,625	199,625
Education and Rehabilitation		
(a) Personal Services	84,444	87,343
(b) Operation and Capital	11,325	9,348
Farm or Ranch		
(a) Personal Services	62,311	65,546
(b) Operation and Capital	44,600	44,100
(2) From the Federal and Private Revenue Fund for:		
Hospital Improvement		
(a) Personal Services	103,000	62,939
Foster Grandparents		
(a) Personal Services	4,404	—0—
(b) Operation and Capital	748	—0—
(3) The head of this agency shall not receive a salary in excess of $15,000 for the fiscal year ending June 30, 1970; and $15,500 for the fiscal year ending June 30, 1971.		
CENTER FOR THE AGED		
(1) From the General Fund for:		
Administration		
(a) Personal Services	41,794	43,949
(b) Operation and Capital	4,280	3,700

HeinOnline -- 1969 vol. II 1132 1969

Care and Custody

(a) Personal Services	114,378	120,108
(b) Operation and Capital	68,800	70,875

General Services and Physical Plant

(a) Personal Services	20,483	28,244
(b) Operation and Capital	18,300	15,200

(2) The head of this agency shall not receive a salary in excess of $12,000 for the fiscal year ending June 30, 1970; and $12,500 for the fiscal year ending June 30, 1971. No housing and maintenance shall be allowed in addition to the established salary.

CHILDREN'S CENTER

(1) From the General Fund for:

Administration

(a) Personal Services	32,522	34,200
(b) Operation and Capital	8,460	7,720

Care and Custody

(a) Personal Services	344,431	359,412
(b) Operation and Capital	122,735	122,835

General Services and Physical Plant

(a) Personal Services	68,604	72,166
(b) Operation and Capital	43,620	44,220

Education and Rehabilitation

(a) Personal Services	48,881	60,747
(b) Operation and Capital	10,564	7,909

(2) From the Federal and Private Revenue Fund for:

Education and Rehabilitation

(a) Personal Services	16,584	16,584
(b) Operation and Capital	2,916	2,916

HeinOnline -- 1969 vol. II 1133 1969

(3) The head of this agency shall not receive a salary in excess of $12,000 for the fiscal year ending June 30, 1970; and $12,500 for the fiscal year ending June 30, 1971.

EASTERN MONTANA TRAINING CENTER

(1) From the General Fund for:

Administration		
(a) Personal Services	21,602	22,714
(b) Operation and Capital	5,505	4,888
Care and Custody		
(a) Personal Services	40,052	59,116
(b) Operation and Capital	21,876	24,245
General Services and Physical Plant		
(a) Personal Services	5,987	7,583
(b) Operation and Capital	5,850	3,427
Education and Rehabilitation		
(a) Personal Services	38,418	53,890
(b) Operation and Capital	10,280	5,780

(2) The head of this agency shall not receive a salary in excess of $10,000 for the fiscal year ending June 30, 1970; and $10,500 for the fiscal year ending June 30, 1971. No housing and maintenance shall be allowed in addition to the established salary.

GALEN STATE HOSPITAL

(1) From the General Fund for:

Administration		
(a) Personal Services	99,543	104,713
(b) Operation and Capital	17,496	17,678

HeinOnline -- 1969 vol. II 1134 1969

Care and Custody		
(a) Personal Services	889,731	935,939
(b) Operation and Capital	114,500	116,200
General Services and Physical Plant		
(a) Personal Services	134,363	141,337
(b) Operation and Capital	102,653	102,153
Mentally Retarded Care		
(a) Personal Services	120,153	126,390
(b) Operation and Capital	62,700	63,000
Care for the Aged		
(a) Personal Services	120,181	126,419
(b) Operation and Capital	40,000	41,300
Alcoholic Treatment		
(a) Operation and Capital	22,452	22,452

(2) The head of this agency shall not receive a salary in excess of $24,500 for the fiscal year ending June 30, 1970; and $25,000 for the fiscal year ending June 30, 1971.

MOUNTAIN VIEW SCHOOL

(1) From the General Fund for:

Administration		
(a) Personal Services	43,558	45,819
(b) Operation and Capital	12,750	11,500
Care and Custody		
(a) Personal Services	170,027	193,949
(b) Operation and Capital	53,100	53,200
General Services and Physical Plant		
(a) Personal Services	32,956	34,666
(b) Operation and Capital	32,100	29,900

HeinOnline -- 1969 vol. II 1135 1969

Education and Rehabilitation		
(a) Personal Services	66,153	69,715
(b) Operation and Capital	4,975	4,875
(2) From the Federal and Private Revenue Fund for:		
Care and Custody:		
(a) Personal Services	6,000	6,000
(b) Operation and Capital	1,000	1,000
Education and Rehabilitation		
(a) Personal Services	3,000	3,000
(3) The head of this agency shall not receive a salary in excess of $13,000 for the fiscal year ending June 30, 1970; and $13,500 for the fiscal year ending June 30, 1971. No housing and maintenance shall be allowed in addition to the established salary.		
PINE HILLS SCHOOL		
(1) From the General Fund for:		
Administration		
(a) Personal Services	66,335	69,780
(b) Operation and Capital	12,650	12,150
Care and Custody		
(a) Personal Services	380,555	408,814
(b) Operation and Capital	101,740	101,740
General Services and Physical Plant		
(a) Personal Services	78,595	82,673
(b) Operation and Capital	74,430	69,965
Education and Rehabilitation		
(a) Personal Services	180,006	193,877
(b) Operation and Capital	12,860	12,510

HeinOnline -- 1969 vol. II 1136 1969

Farm		
(a) Personal Services	39,596	41,648
(b) Operation and Capital	28,800	28,200
(2) From the Interest and Income Account for:		
Care and Custody		
(a) Personal Services	25,000	25,000
(3) The head of this agency shall not receive a salary in excess of $13,500 for the fiscal year ending June 30, 1970; and $14,000 for the fiscal year ending June 30, 1971.		
STATE PRISON		
(1) From the General Fund for:		
Administration		
(a) Personal Services	104,799	110,251
(b) Operation and Capital	23,572	23,359
Care and Custody		
(a) Personal Services	918,027	974,165
(b) Operation and Capital	208,700	218,100
General Services and Physical Plant		
(a) Personal Services	132,835	139,727
(b) Operation and Capital	185,000	173,404
Education		
(a) Personal Services	35,757	45,763
(b) Operation and Capital	3,111	3,267
Ranches		
(a) Personal Services	98,618	103,731
(b) Operation and Capital	108,765	125,805
Bureau of Identification		
(a) Personal Services	39,861	41,932
(b) Operation and Capital	2,200	2,105

HeinOnline -- 1969 vol. II 1137 1969

(2) From the Motor Vehicle Account for:		
Care and Custody		
(a) Personal Services	175,000	175,000
(3) From the Prison Industrial Account for:		
Care and Custody		
(a) Operation and Capital	42,000	42,000
Ranch		
(a) Operation and Capital	33,000	33,000
(4) From the Federal and Private Revenue Fund for:		
Care and Custody		
(a) Personal Services	18,438	19,431
(5) The head of this agency shall not receive a salary in excess of $14,500 for the fiscal year ending June 30, 1970; and $15,000 for the fiscal year ending June 30, 1971.		
SWAN RIVER YOUTH FOREST CAMP		
(1) From the General Fund for:		
Administration		
(a) Personal Services	33,616	35,361
(b) Operation and Capital	6,812	8,612
Care and Custody		
(a) Personal Services	80,685	85,881
(b) Operation and Capital	3,424	3,424
General Services and Physical Plant		
(a) Personal Services	6,571	6,912
(b) Operation and Capital	19,825	19,825
Education and Rehabilitation		
(a) Operation and Capital	7,750	7,150

HeinOnline -- 1969 vol. II 1138 1969

(2) From the Federal and Private Revenue Fund for:		
Care and Custody		
(a) Personal Services	20,000	20,000
(b) Operation and Capital	38,126	38,126
(3) The head of this agency shall not receive a salary in excess of $12,500 for the fiscal year ending June 30, 1970; and $13,000 for the fiscal year ending June 30, 1971. No housing and maintenance shall be allowed in addition to the established salary.		
VETERANS' HOME		
(1) From the General Fund for:		
Administration		
(a) Personal Services	20,246	21,296
(b) Operation and Capital	5,270	4,840
Care and Custody		
(a) Personal Services	51,370	54,944
(b) Operation and Capital	7,050	9,078
General Services and Physical Plant		
(a) Personal Services	36,345	38,232
(b) Operation and Capital	7,369	5,268
(2) From the Federal Fund Soldiers' Home Account for:		
Care and Custody		
(a) Personal Services	17,500	17,500
(b) Operation and Capital	20,000	20,000
General Services and Physical Plant		
(a) Operation and Capital	22,500	22,500
(3) From the Interest and Income Account for:		

HeinOnline -- 1969 vol. II 1139 1969

Care and Custody

(a) Operation and Capital	3,000	—0—

(4) From the Soldiers' Home Deceased Members Account for:

Care and Custody

(a) Operation and Capital	—0—	560

(5) The head of this agency shall not receive a salary in excess of $8,500 for the fiscal year ending June 30, 1970; and $9,000 for the fiscal year ending June 30, 1971.

WARM SPRINGS STATE HOSPITAL

(1) From the General Fund for:

Administration

(a) Personal Services	218,263	229,594
(b) Operation and Capital	60,575	60,825

Care and Custody

(a) Personal Services	3,800,621	3,997,720
(b) Operation and Capital	929,111	988,350

General Services and Physical Plant

(a) Personal Services	327,152	344,133
(b) Operation and Capital	256,050	253,054

Alcoholic Treatment Program—Galen State Hospital

(a) Personal Services	72,745	76,186
(b) Operation and Capital	17,043	7,600

(2) From the Revolving Fund—Warm Springs State Hospital Account. All receipts from the Recreation Hall and Canteen. Any balance remaining in this account at the end of the biennium shall revert to the General Fund for:

HeinOnline -- 1969 vol. II 1140 1969

Canteen and Recreation Hall

(a)	Personal Services	32,214	33,886
(b)	Operation and Capital	85,500	85,500
(3)	**Community Mental Health Centers and Mental Hygiene Clinics**		
	a. From the general fund for the state mental hygiene clinic program and community mental health centers for operation, capital and personal services	410,000	410,000
	b. From the federal and private revenue fund mental hygiene account for:		
(1)	Personal Services	65,000	65,000
	c. From the federal and private revenue fund, mental hygiene account, for the community health centers program such funds that are available or become available for support of this program.		
	d. After receipt of federal funds into the regional mental health centers program the remaining cost of operating said programs shall be shared on an equal basis by the State of Montana and the regional mental health boards and participating counties.		
(4)	The head of this agency shall not receive a salary in excess of $32,000 for the fiscal year ending June 30, 1970; and $33,000 for the fiscal year ending June 30, 1971. Not to exceed $25,000 from the general fund in the first year of the biennium and $26,000 in the second year of the biennium. Collections for housing and maintenance shall revert to the general fund.		

Approved: March 17, 1969.

HeinOnline -- 1969 vol. II 1141 1969

HOUSE BILL NO. 599

An Act to Appropriate Monies to the Units of the Montana University System, the Agricultural Experiment Station, the Cooperative Extension Service, the Western Interstate Commission for Higher Education, the Office of the Executive Secretary of the Montana University System and the School for the Deaf and Blind for Personal Services, Operation, and Capital Expenditures for the Biennium Ending June 30, 1971.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. For the purposes of this act, unless otherwise stated:

(1) The term "personal services" means all salaries and wages of employees of the state and the state's contribution for social security, employees' retirement, industrial accident insurance, and any authorized insurance program.

(2) The term "operation" means all ordinary and necessary expenditures for operation of the unit to which the appropriation applies, and repairs and maintenance, but does not include personal services.

(3) The term "repairs and maintenance" means repairs to equipment and the cost of replacing parts of equipment, repairs to buildings and to the plumbing, heating, wiring and air-conditioning systems in buildings, occasioned by ordinary wear and tear or by physical damage, and the cost of painting the exteriors and interiors of buildings.

(4) The term "capital" means those items which do not lose their identity, which are adaptable to continuing use and have a useful life of more than one (1) year. Capital shall include the replacement of existing capital assets, as well as new acquisitions, but does not include expenditures for the construction, improvement, betterment, or furnishing of buildings, structures, or purchase of buildings or land unless specifically authorized by legislative act, or approval of the Board of Regents.

(5) The term "grants and benefits" means expenditures for grants to political subdivisions, associations, or individuals.

(6) The term "approved budget amendment" means approval of a request by the governor submitted to him through the budget director. An informational copy of each request for a budget amendment shall be filed with the legislative fiscal analyst.

(7) The term "student fees" means all registration and incidental fees, but not student building fees, and all nonresident building fees other than nonresident fees, which are imposed uni-

HeinOnline -- 1969 vol. II 1142 1969

formly on all students, or upon all nonresident students, in attendance at any unit of the Montana university system.

Section 2. (1) The appropriations contained in this act are intended to provide only necessary and ordinary expenditures for the year for which the appropriations were made. The unexpended balance of any appropriation shall revert to the fund from which it was appropriated at the end of each fiscal year, except amounts encumbered by purchase order. However, in case of necessity, an appropriation not expended during the first fiscal year of the biennium may be expended during the second fiscal year if authorized by the governor by an approved budget amendment.

Section 3. Unless otherwise provided in this act, all monies received or collected from any source whatsoever by the units named in this act shall be deposited in the state treasury and credited to the proper fund.

Section 4. The salary of the chief administrator of each unit shall be determined by the appointing authority in accordance with the statutory provisions and, in no case, shall the salary determined exceed the amount set out in this act for the unit.

Section 5. In addition to the amounts specifically appropriated by this act, there is hereby appropriated all federal funds for existing programs, all nontreasury funds, including those funds related to various supporting facilities and organizations such as auxiliary enterprises and foundations. All other monies received from all other sources may be made available by an approved budget amendment.

Section 6. No unit shall establish new programs or expand existing programs beyond the scope of the programs already established, recognized and approved by the legislature in the review of the 1971 biennial budget, until such program and the method of financing shall be presented to the governor through the budget director, for approval.

Section 7. The following monies are appropriated for the biennium ending June 30, 1971:

	For the Fiscal Year Ending June 30, 1970	For the Fiscal Year Ending June 30, 1971
UNIVERSITY OF MONTANA		
(1) From the earmarked revenue fund, student fee account, for personal services, operation and capital	$2,160,000	$2,255,000

HeinOnline -- 1969 vol. II 1143 1969

(2)	From the earmarked revenue fund, university millage account, for personal services, operation and capital	1,800,000	1,850,000
(3)	From the general fund, for personal services, operation and capital	6,535,000	7,350,000
	MONTANA STATE UNIVERSITY		
(1)	From the earmarked revenue fund, student fee account, for personal services, operation and capital	1,950,000	2,000,000
(2)	From the earmarked revenue fund, university millage account, for personal services, operation and capital	1,900,000	1,925,000
(3)	From the general fund, for personal services, operation and capital	6,845,000	7,750,000
	AGRICULTURAL EXPERIMENT STATION		
(1)	From the general fund, for personal services, operation and capital	1,865,000	2,030,000
	COOPERATIVE EXTENSION SERVICE		
(1)	From the general fund for personal services, operation and capital	660,000	710,000
	MONTANA COLLEGE OF MINERAL SCIENCE AND TECHNOLOGY		
(1)	From the earmarked revenue fund, student fee account, for personal services, operation and capital	175,000	180,000
(2)	From the earmarked revenue fund, university millage account, for personal services, operation and capital	175,000	185,000
(3)	From the general fund for personal services, operation and capital	1,110,000	1,185,000
(4)	From the general fund for coal research	40,000	—0—

HeinOnline -- 1969 vol. II 1144 1969

EASTERN MONTANA COLLEGE			
(1)	From the earmarked revenue fund, student fee account, for personal services, operation and capital	845,000	880,000
(2)	From the earmarked revenue fund, university millage account, for personal services, operation and capital	775,000	800,000
(3)	From the general fund for personal services, operation and capital	2,175,000	2,335,000
NORTHERN MONTANA COLLEGE			
(1)	From the earmarked revenue fund, student fee account, for personal services, operation and capital	310,000	320,000
(2)	From the earmarked revenue fund, university millage account, for personal services, operation and capital	350,000	355,000
(3)	From the general fund for personal services, operation and capital	1,160,000	1,225,000
WESTERN MONTANA COLLEGE			
(1)	From the earmarked revenue fund, student fee account, for personal services, operation and capital	245,000	250,000
(2)	From the earmarked revenue fund, university millage account, for personal services, operation and capital	260,000	265,000
(3)	From the general fund for personal services, operation and capital	680,000	735,000
OFFICE OF EXECUTIVE SECRETARY MONTANA UNIVERSITY SYSTEM			
(1)	From the general fund for personal services, operation and capital	69,866	77,731
(2)	From the general fund for N.D.E.A. matching loan funds	35,000	35,000
(3)	From the general fund for W.I.C.H.E. administration	16,000	16,000

HeinOnline -- 1969 vol. II 1145 1969

(4)	From the general fund for W.I.C.H.E. student payments	239,200	310,200
(5)	From the federal and private revenue fund, executive secretary account for personal services, operation and capital	60,000	60,000
SCHOOL FOR THE DEAF AND BLIND			
(1)	From the general fund for personal services, operation and capital	482,243	499,862
(2)	Deaf and blind interest and income account	25,000	25,000

Section 8. If any section, subsection, sentence, clause or phrase of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this act. The legislature hereby declares that it would have passed this act and each section, subsection, sentence, clause and phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared unconstitutional.

Approved: March 17, 1969.

HOUSE BILL NO. 600

An Act to Appropriate Fifty Thousand Dollars ($50,000) From the General Fund to the Legislative Council for the Legislative Fiscal Review Committee for the Biennium Ending June 30, 1971.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Fifty thousand dollars ($50,000) is appropriated from the general fund to the legislative council for the legislative fiscal review committee for the biennium ending June 30, 1971.

Approved: March 19, 1969.

HOUSE BILL NO. 609

An Act Appropriating Monies to State Agencies for Capital Projects for the Biennium Ending June 30, 1971.

HeinOnline -- 1969 vol. II 1146 1969

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. The following monies are appropriated for the biennium ending June 30, 1971, for the purchase of land, and construction and furnishing of buildings and other improvements to land:

AERONAUTICS COMMISSION

(1) From the federal and private grant clearance fund, Aeronautics Account #505400, Terminal Building, West Yellowstone $193,500

(2) From the federal grant clearance fund, aeronautics commission account, all monies appropriated by federal government for specific airport projects.

UNEMPLOYMENT COMPENSATION COMMISSION

(1) From the federal and private revenue fund, U.C.C. Account #410428, Employment Service Building, Great Falls 387,728
Employment Service Building addition, Billings 174,500
Employment Service Building, Missoula 226,850
Employment Service Building, Helena 226,850

BOULDER RIVER SCHOOL AND HOSPITAL

(1) From the federal and private revenue fund, Account #403100, Chapel 100,000

Section 2. The balance of any appropriation unexpended at the end of the biennium which is not encumbered by purchase order or obligated by other written contract shall revert to the fund from which it was appropriated.

Section 3. Monies appropriated for one project for the Unemployment Compensation Commission may be used for another project upon approval by the governor of a request submitted to him by the state controller.

Approved: March 17, 1969.

HOUSE BILL NO. 611

An Act Appropriating $2,000,000 to the State Controller From the Capitol Building Program Account, Bond Proceeds and Insurance Clearance Fund, of Which $250,000 Is for Land Acqui-

HeinOnline -- 1969 vol. II 1147 1969

sition for Public Buildings at the Capitol of the State, $1,000,000 is for Construction of a Supreme Court and Law Library Building, and $750,000 Is for Renovation of Legislative Areas of the State Capitol Building for the Biennium Ending June 30, 1971.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Two million dollars ($2,000,000) is appropriated from the capitol building program account, bond proceeds and insurance clearance fund to the state controller for the biennium ending June 30, 1971 for the following purposes:

(a) for land acquisition for public buildings at the state capitol ..... $ 250,000

(b) for construction of a supreme court and law library building 1,000,000

(c) for renovation of the legislative areas of the state capitol building 750,000

Approved: March 17, 1969.

HOUSE BILL NO. 617

An Act to Appropriate Moneys for Vocational Education for the Biennium Ending June 30, 1971.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. There is appropriated for the biennium ending June 30, 1971, the following moneys:

(1) From the general fund:

(a) to the state board for vocational education to implement the primary source of financing provision of of House Bill 481 of the Forty-first Legislative Assembly $3,000,000

(b) to the state board for vocational education for vocational education not included under the provisions of House Bill 481 of the Forty-first Legislative Assembly 900,000

(c) to northern Montana college for training vocational-technical teachers 100,000

(2) All federal moneys deposited in the superintendent of pub-

HeinOnline -- 1969 vol. II 1148 1969

lic instruction federal and private grant clearance account (510403) are hereby appropriated.

Approved: March 19, 1969.

HOUSE BILL NO. 619

An Act to Appropriate $25,000 From the Oil and Gas Conservation Commission Account in the Earmarked Revenue Fund to the State Treasurer for Deposit in the General Fund.

WHEREAS, the Oil and Gas Conservation Commission was created by chapter 238, Laws of 1953, and

WHEREAS, for the 1953-1955 biennium the Oil and Gas Conservation Commission was appropriated $23,000 from the Montana general fund, and

WHEREAS, since its creation the commission has collected sufficient privilege and license taxes and permit fees from operators and producers of oil and gas to completely defray all expenses of the commission and even build a surplus in excess of the original appropriation of $23,000, and

WHEREAS, it appears and the commission has agreed that it does not now, nor will it need this surplus, and

WHEREAS, even at a modest interest rate the $23,000 appropriation would have appreciated to much more than $25,000 during the past sixteen years.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. There is appropriated twenty-five thousand dollars ($25,000) from the oil and gas conservation commission account in the earmarked revenue fund to the state treasurer.

Section 2. The state treasurer shall deposit in the general fund the amount appropriated by section 1 of this act.

Approved: March 17, 1969.

HOUSE JOINT RESOLUTION NO. 3

A Joint Resolution of the Senate and House of Representatives That the Superintendent of Yellowstone National Park and Vari-

HeinOnline -- 1969 vol. II 1149 1969

ous Montana Veteran, Wild Life and Sportsmen Organizations Reach an Agreement Whereby Members Will Be Available to a Call of the Superintendent to be Deputized as Park Rangers to Assist Regular Park Rangers in Reducing the Elk Population in the Park to Safe and Sustainable Numbers.

WHEREAS, from time to time the elk population of Yellowstone National Park increases to the point of overpopulation creating a hazardous condition whereby available forage becomes insufficient to safely sustain the elk and large numbers of them die from starvation and whereby there is also deterioration of the surviving elk and of the critical grazing area, and

WHEREAS, varying methods for relieving this problem have been used with relatively poor results, namely: a firing line, transplanting elk, and slaughter of excess elk by regular park rangers; which methods have been undesirable, unsuccessful and have given rise to general public criticism, and

WHEREAS, there are able-bodied members of Montana veteran, wild life, and sportsmen organizations who would be willing to assist the Yellowstone Park officials in reducing the size of the elk herd so as to relieve the emergency condition, and

WHEREAS, the superintendent of Yellowstone National Park has great latitude and discretion in handling problems of this nature, and

WHEREAS, other national park superintendents have deputized private citizens to act as temporary deputy park rangers, under the specific direction and supervision of regular park rangers.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND HOUSE OF REPPRESENTATIVES OF THE STATE OF MONTANA:

That various Montana veteran, wild life and sportsmen organizations and the superintendent of Yellowstone National Park reach a voluntary working agreement whereby members of such organizations will be available on a standby basis to a call of the superintendent to go to Yellowstone National Park and be deputized as park rangers for the purpose of assisting the regular park rangers in reducing the elk population to safe and sustainable numbers, and

BE IT FURTHER RESOLVED, that the superintendent of Yellowstone Park be requested and be authorized to establish proper and reasonable rules and regulations to carry out the purposes of the program, and

HeinOnline -- 1969 vol. II 1150 1969

BE IT FURTHER RESOLVED, that the secretary of state is directed to send a copy of this joint resolution to the superintendent of Yellowstone National Park, the directors of the National Park Service and to the members of the Montana Congressional Delegation.

Approved: February 24, 1969.

HOUSE JOINT RESOLUTION NO. 4

A Joint Resolution of the Senate and House of Representatives of the State of Montana Requesting that the Fight Site of Meriwether Lewis and His Men With Blackfeet Indians on the South Bank of the Two Medicine River on the Blackfeet Indian Reservation of the State of Montana and the Surrounding Area Evidencing Ancient Marine and Animal Life and Indian Cultures Be Designated as Both an Historical Landmark and National Monument.

WHEREAS, on July 26, 1806, Captain Meriwether Lewis with Drewyer and the two Fields brothers made contact with eight Blackfeet Indians on the south bank of the Two Medicine River in what is now the Blackfeet Indian Reservation in Montana, and

WHEREAS, after meeting with said Indians, they descended the high bluffs to a camping spot vividly and accurately described in the journals of Meriwether Lewis and made camp under three large cottonwood trees standing alone and apart from other trees, and

WHEREAS, early the next morning, in an attempt to steal the horses and guns of Lewis and his party, a fight ensued in which one Indian was shot by Captain Lewis and a second one stabbed by one of the Fields brothers, and

WHEREAS, this was the only skirmish with members of any Indian tribe on the entire expedition resulting in a loss of life, and

WHEREAS, this skirmish and the resulting hostility of the Blackfeet prevented such area from being opened to trade by at least twenty-five (25) years, and

WHEREAS, had the Indians prevailed in said skirmish and Lewis and his party been killed, valuable journals and records would have been most probably destroyed and lost forever, and this important part of the Lewis & Clark Expedition and all its benefits would have been nullified, and

HeinOnline -- 1969 vol. II 1151 1969

WHEREAS, this episode has been deemed by some historians the most serious single threat to the successful accomplishment of the Lewis & Clark Expedition, and

WHEREAS, this fight site is within the exterior boundaries of the Blackfeet Indian Reservation and actually on land standing in the United States of America in trust for certain Blackfeet wards of the government, and

WHEREAS, it is in a wild and scenic area, quite remote from actual travel to the fight site except by foot or horseback, and

WHEREAS, the importance of this encounter, the surrounding typography and the three trees under which they camped, will admirably lend themselves to development as an historical area which should be preserved for future generations, and

WHEREAS, in close vicinity to the fight site, isolated buffalo skulls and bones have been discovered along with the petrified remains of sea animals such as mollusks, clams and other invertebrates together with petrified bones of animals embedded in sandstone indicating an age running into millions of years, and

WHEREAS, ancient Indian teepee rings abound in the area along with discernible mounds of stone placed in rows at strategic places behind which the Indians hid in order to haze game animals to a definite area, and

WHEREAS, along the banks of the Two Medicine River in the area of the fight site there is a piskun as evidenced by what appears to be layers of buffalo bones discernible along the river bank, and particularly along the sides and roofs of caves found in that area immediately below the jump, and

WHEREAS, as knowledge spreads of the actual location of the fight site, the presence of buffalo skulls, petrified bones of great age, evidence of an old Indian culture and a piskun, souvenir and artifact hunters will overrun and harm the historical and anthropologic evidences, particularly the three trees where Lewis and his men camped with the Indians on the piskun.

NOW, THEREFFORE, BE IT RESOLVED BY THE SENATE AND HOUSE OF REPPRESENTATIVES OF THE STATE OF MONTANA:

That the fight site area hereinabove referred to be designated by the United States of America as an Historical Landmark, and

BE IT FURTHER RESOLVED, that the area surrounding the

HeinOnline -- 1969 vol. II 1152 1969

fight site be thoroughly examined as to evidences of early Indian culture and ancient marine and animal life and that such study being favorable the area be protected and developed as a National Monument,

BE IT FURTHER RESOLVED, that the Secretary of State send copies of this Resolution to all the members of Montana's Congressional delegation at Washington, D.C., to the Secretary of the Interior, to the Bureau of Indian Affairs and to the Secretary of Interior's Advisory Board on National Parks, Historical Sites, Buildings and Monuments.

Approved: February 24, 1969.

HOUSE JOINT RESOLUTION NO. 5

A Joint Resolution of the Senate and House of Representatives Consenting to a Creative Arts Facility—Phase I at Montana State University.

WHEREAS, Section 82-3316, R.C.M. 1947, provides, that with certain exceptions, a building costing more than twenty-five thousand dollars ($25,000) may not be constructed without the consent of the legislative assembly, and

WHEREAS, section 88-3316 [82-3316], R.C.M. 1947, further provides that when a building is to be financed in such a manner as not to require legislative appropriation of moneys, such consent may be in the form of a joint resolution.

NOW, THEREFFORE, BE IT RESOLVED BY THE SENATE AND HOUSE OF REPPRESENTATIVES OF THE STATE OF MONTANA:

That, subject to the availability of funds, other than the appropriated funds from regular state revenues for state operations, the legislative assembly consents to the following capital construction program:

Creative Arts Facility—Phase I at Montana State University—three million nine hundred forty-six thousand five hundred dollars ($3,946,500).

Approved: February 28, 1969.

HeinOnline -- 1969 vol. II 1153 1969

HOUSE JOINT RESOLUTION NO. 6

A Joint Resolution of the Senate and House of Representatives of the State of Montana to the Montana Congressional Delegation Asking That the Secretary of the Treasury Be Directed to Forward to the State of Montana All Unclaimed and Unpaid Deposits in the Discontinued United States Postal Savings System, Plus Interest, in Which the State of Montana Is Interested.

WHEREAS, the United States Congress discontinued the postal savings system in 1966, and

WHEREAS, The Board of Trustees of the Postal Savings System was vested with the duty to insure distribution of deposits of a deceased or presumed dead person to the proper party entitled to receive same, and

WHEREAS, on July 1, 1967, the total amount of unpaid deposits was transferred to the United States Treasury to the credit of the trust fund receipt account "Unclaimed moneys of individuals whose whereabouts are unknown," and

WHEREAS, Montana has a law relating to the disposition of unclaimed property which law protects the interest of original owners and provides that funds coming to the state of Montana under this law are deposited in the public school fund, and pursuant to this law the state of Montana has instituted a legal action to recover all such funds properly belonging to the State of Montana.

NOW, THEREFFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That Congress is requested to direct the Secretary of the Treasury to transmit to the treasurer of the state of Montana the total amount of all deposits, with interest, in said trust fund receipt account, which remain unclaimed and unpaid, and:

(a) which were at the time of termination of said Postal Savings System deposited with any post office in the state of Montana; and

(b) which were at the time of termination of said Postal Savings System deposited with any post office in the United States or its territories where the last known address of the depositor was a Montana address.

BE IT FURTHER RESOLVED, that the secretary of state is directed to send a copy of this resolution to each member of the

HeinOnline -- 1969 vol. II 1154 1969

Montana congressional delegation and to the Secretary of the Treasury.

Approved: February 24, 1968.

HOUSE JOINT RESOLUTION NO. 8

A Joint Resolution of the Senate and House of Representatives Requesting the Montana Highway Commission to Designate as Primary Highway the Portion of the Bainville to Fort Union Road That Lies in Montana.

WHEREAS, there are very few national parks in eastern Montana, and

WHEREAS, the National Park Service has designated Fort Union in northeast Montana as a national Park, has appropriated funds for the development of this historical site, and present plans are that the fort be fully reconstructed within five years, and

WHEREAS, a large amount of archeological work began at this site in the summer of 1968, and will continue in 1969, and

WHEREAS, there were 95,000 visitors at the Fort Union site in 1968, and the estimate by the National Park Service is that, if adequate all weather roads are provided, over 300,000 people will visit the site annually after it is fully reconstructed, and

WHEREAS, as soon as the fort is reconstructed, the state of North Dakota will designate as part of its highway primary system that portion of highway which lies in North Dakota from U.S. Highway 2 to Fort Union.

NOW, THEREFFORE, BE IT RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Montana highway commission designate as primary highway that portion of the Bainville to Fort Union road which lies in Montana.

BE IT FURTHER RESOLVED, that the secretary of state is directed to send a copy of this resolution to the members of the Montana state highway commission.

Approved: March 5, 1969.

HeinOnline -- 1969 vol. II 1155 1969

HOUSE JOINT RESOLUTION NO. 9

A Joint Resolution of the Senate and House of Representatives Establishing the Intent of the Legislative Assembly That the State of Montana Shall Adopt at the Earliest Feasible Date a Basis of Accounting That Is in Accordance With Generally Accepted Governmental Accounting Principles That Take Into Account the Accrual or Modified Accrual Basis of Accounting Where Applicable.

WHEREAS, the basis of accounting is a device for matching revenues and expenditures during a designated period of time and refers specifically to the time when revenues and expenditures are recorded as such in the accounting records, and

WHEREAS, the "cash basis" of accounting is a system which recognizes incomes or revenues only when collected and expenditures only when paid, and

WHEREAS, under the "modified accrual basis" of accounting, revenues are recorded when they are received in cash and expenditures are recorded when the liability for them is initially incurred, and

WHEREAS, under the "full accrual basis" of accounting, revenues are recorded in the accounts at the time they are earned and expenditures are recorded when the liability for them is initially incurred, and

WHEREAS, under the cash basis of accounting, an accurate comparison of expenditures in relation to the receipt of goods or services is not possible, because the goods or services may be received in one fiscal year and the payment therefor not be made until the following fiscal year, and

WHEREAS, the accrual basis of accounting, to the extent that is practicable, provide a superior method of accounting for the inflow and outgo of economic resources in any organization because it relates costs and expenditures to the time period in which benefits of the outlays are received and because it provides a more accurate matching of these benefits with associated revenues, and

WHEREAS, the accrual or modified accrual basis of accounting is the method most generally accepted by governmental authorities for budgeting, accounting, and reporting upon the financial aspects of governmental activities, and

WHEREAS, the federal government is requiring, at an increas-

HeinOnline -- 1969 vol. II 1156 1969

ing rate, recipients of federal funds to account for the expenditures of these funds on the accrual basis, and

WHEREAS, the budgeting, accounting, and reporting of the financial affairs of the state of Montana are currently applied utilizing the cash basis of accounting, and

WHEREAS, the Legislative Assembly deems that the interests of the state of Montana would best be served if its financal activities are budgeted, accounted, and reported utilizing the accrual or modified accrual basis of accounting to the most practicable extent.

NOW, THEREFFORE, BE IT RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That it is the intent of the Legislative Assembly that the state of Montana adopt at the earliest feasible date a basis of accounting that is in accordance with generally accepted governmental accounting principles which take into account the accrual or modified accrual basis of accounting where applicable, and

BE IT RESOLVED, that the Governor shall include in the 1971-73 executive budget, supplemental financial information to show the effect of adopting this change effective July 1, 1971, and

BE IT FURTHER RESOLVED, that during the 1969-71 interim the State Controller shall inventory all statutes in conflict with this intent and shall submit recommended changes to the forty-second legislative assembly, and

BE IT FURTHER RESOLVED, that the Secretary of State is instructed to send copies of this resolution to the Governor and the State Controller.

Approved: February 28, 1969.

HOUSE JOINT RESOLUTION NO. 10

A Joint Resolution of the Senate and House of Representatives of the State of Montana Urging the Use of Montana Materials and Products in the Construction of Public Buildings and Structures.

WHEREAS, there exists in Montana a variety of natural resources such as timber, marble, travertine, other construction stone and other materials suitable for use in construction projects; and

WHEREAS, the possibility of using Montana materials and prod-

HeinOnline -- 1969 vol. II 1157 1969

ucts is often ignored when planning and constructing public building and structures in the state of Montana; and

WHEREAS, the specifications for such public projects often set forth requirements for the use of foreign and out of state products and materials.

NOW, THEREFFORE, BE IT RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That all institutions and agencies of the state of Montana are urged to consider and advocate the use of Montana products and materials when planning and constructing a public building or structure.

BE IT FURTHER RESOLVED, that the secretary of state is instructed to send a copy of this resolution to the governor.

Approved: March 5, 1969.

HOUSE JOINT RESOLUTION NO. 11

A Joint Resolution of the Senate and House of Representatives Requesting the Legislative Council to Prepare Legislation Providing for a Viet Nam Honorarium.

WHEREAS, Montana has recognized the overseas service of military personnel in World War I, World War II, and the Korean Conflict with an Honorarium, and

WHEREAS, the Viet Nam military action has continued for several years but will hopefully end before the next session of the legislature.

NOW, THEREFFORE, BE IT RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the legislative council is hereby requested to prepare legislation patterned on previous similar legislation providing for an Honorarium for Montana Veterans of the Viet Nam Conflict, estimating the cost thereof, and providing for the necessary bonds to be repaid from such sources as may be decided upon, and

BE IT FURTHER RESOLVED, this report is to be prepared for the 42nd legislative assembly.

Approved: February 24, 1969.

HeinOnline -- 1969 vol. II 1158 1969

HOUSE JOINT RESOLUTION NO. 12

A Joint Resolution of the Senate and House of Representatives Directing a Study Be Made of the Feasibility of Acquiring State Land in the Smith River Canyon in Meagher and Cascade Counties for the Purpose of Establishing the Smith River Recreational Park.

WHEREAS, the "Smith River Recreational Park" should be established in the Smith River Canyon in western Meagher and southern Cascade counties, because of its intrinsic natural beauty and the inaccessible blue ribbon trout stream flowing therein; and

WHEREAS, there are vast limestone caverns located in the canyon; and

WHEREAS, the canyon has potential value and facility for possible float trips for scenic and recreational purposes, and the potential of ground water aquifers in the upper valley which can be utilized to reinforce stream flow during the dry season; and

WHEREAS, game management in the canyon area could provide excellent hunting for game animals and birds, and some of the tributaries thereto could provide exceptional fish hatchery locations; and

WHEREAS, the establishment of the park would help the present economic conditions in the White Sulphur Springs area; and

WHEREAS, cooperation with the federal agencies controlling land in parts of the canyon area would be necessary for the establishment of a state park in the canyon area and the acquisition of state lands necessary therefor; and

WHEREAS, a study should be made for the purpose of determining the feasibility of acquisition of lands in the area for this purpose.

NOW, THEREFFORE, BE IT RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the governor's council on natural resources and development, with the assistance of the legislative council, conduct an interim feasibility study of the possibility of acquiring state lands in the Smith River Canyon in western Meagher and southern Cascade counties, together with some of the tributaries thereto, for the purpose of establishing the "Smith River Recreational Park," and

BE IT FURTHER RESOLVED, that a written report on the

HeinOnline -- 1969 vol. II 1159 1969

study together with the council's recommendations be submitted to the governor on or before December 1, 1970, and

BE IT FURTHER RESOLVED, that copies of this resolution be mailed to the governor of Montana, the members of the governor's council on natural resources and development, the members and executive director of the legislative council, the state forester, the state land commissioner, state highway commission, state fish and game commission, U.S. Forest Service regional office, Missoula, Montana, and the U.S. Bureau of Land Management office, Billings, Montana.

Approved: February 24, 1969.

HOUSE JOINT RESOLUTION NO. 14

A Joint Resolution of the Senate and House of Representatives Asking That Highway 16 From Glendive via Sidney, Culbertson, Plentywood, and Port of Raymond Be Designated as the Interstate Connection With the Province of Saskatchewan.

WHEREAS, the interstate highway act requires that there be a connection between each of the provinces of Canada and the interstate system in the United States, and

WHEREAS, there has to date been no designation of an interstate route to the province of Saskatchewan.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the general route of highway 16 from Glendive via Sidney, Culbertson, Plentywood, and Port of Raymond be designated as the interstate connection with the province of Saskatchewan.

BE IT FURTHER RESOLVED, that the Secretary of State is directed to send copies of this resolution to the Governor of Montana, to each member of the State Highway Commission, to the Bureau of Public Roads in both Helena, Montana and in Washington, D.C. and to each member of the Montana Congressional Delegation.

Approved: February 27, 1969.

HOUSE JOINT RESOLUTION NO. 16

A Joint Resolution of the Senate and House of Representatives of the State of Montana Declaring That the Facilities of the

HeinOnline -- 1969 vol. II 1160 1969

Galen State Hospital Should be Fully Utilized; and Requesting That the Board of Institutions Continue Studies to Determine Methods to More Efficiently and Completely Utilize the Facilities of the Galen State Hospital Including Consideration of Locating Persons at the Warm Springs Facility for Alcohol Rehabilitation at the Galen State Hospital While Retaining Control of Therapy Under Warm Springs State Hospital, and Requesting the Board of Institutions to Proceed Without Delay to Assign Additional Functions to the Galen State Hospital if Determined to be Feasible and Desirable.

WHEREAS, the Galen State Hospital was established in 1913 for patients suffering from tuberculosis and silicosis (commonly called miners' consumption); and

WHEREAS, since its establishment the Galen State Hospital has treated more than 13,000 patients for diseases of the chest; and

WHEREAS, in recent years there has been an increase throughout the state in all types of tuberculosis; and

WHEREAS, evidence of this increase is seen in the fact that 88 patients were admitted to the hospital in 1967, but there were 128 new admissions in 1968 for tuberculosis; and

WHEREAS, the State Board of Health does not forsee any decrease in the incidence of tuberculosis for at least the next two years; and

WHEREAS, during 1968 there were 276 patients suffering from diseases other than tuberculosis, such as silicosis, emphysema, bronchiectasis, carcinoma of the lung, and cardiovascular ailments, admitted to the hospital; and

WHEREAS, the present patient load at the hospital is 134 including 56 persons suffering from tuberculosis; and

WHEREAS, the hospital also treats, as permanent patients, some 94 mentally retarded persons and 75 aged persons; and

WHEREAS, the present recalcitrant patient statute of the state would be difficult to enforce if tuberculosis patients were treated in private hospitals throughout the state; and

WHEREAS, in recent years, emphysema cases have shown a marked increase throughout the nation and the state; and

WHEREAS, many patients with pulmonary disorders have exhausted their benefits under Medicare and would experience extreme hardship if other treatment were not available; and

HeinOnline -- 1969 vol. II 1161 1969

WHEREAS, private hospital per diem costs now average $67 per day throughout the nation making care in these hospitals prohibitive for many persons, but the per diem costs at Galen State Hospital in 1968 were only $21.92; and

WHEREAS, Galen State Hospital is the only state facility that is an accredited hospital which can provide surgical services to persons at Warm Springs State Hospital, the State Prison, and persons suffering from pulmonary ailments at other state institutions; and

WHEREAS, the national trend is toward caring for all long-term ailments, as well as pulmonary diseases, in institutions like Galen State Hospital.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislative Assembly hereby declares that the best interests of the state of Montana and its citizens would be served best by the full utilization of the facilities of the Galen State Hospital.

BE IT FURTHER RESOLVED, that the Legislative Assembly requests that the Board of Institutions continue studies to determine methods to more efficiently and completely utilize the facilities of the Galen State Hospital, including consideration of locating persons at the Warm Springs facility for alcohol rehabilitation at the Galen State Hospital while retaining control of therapy under Warm Springs State Hospital, and, that if it is determined feasible and desirable to assign additional functions to the Galen State Hospital, the Board of Institutions in requested to proceed without delay.

BE IT FURTHER RESOLVED, that the Secretary of State is instructed to send copies of this resolution to the Governor, to each member of the board of Institutions, and to the Director of the Department of Institutions.

Approved: March 13, 1969.

HOUSE JOINT RESOLUTION NO. 17

A Joint Resolution of the Senate and House of Representatives Consenting to Completion of the Air Condition and Heating Con-

HeinOnline -- 1969 vol. II 1162 1969

trol Units and Modification of Fourth Floor for the Library at Montana State University.

WHEREAS, section 88-3316 [82-3316], R.C.M. 1947, provides, that with certain exceptions, a building costing more than twenty-five thousand dollars ($25,000) may not be constructed without the consent of the legislative assembly, and

WHEREAS, section 88-3316 [82-3316], R.C.M. 1947, further provides that when a building is to be financed in such a manner as not to require legislative appropriation of moneys, such consent may be in the form of a joint resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That, subject to the availability of funds, other than the appropriated funds from regular state revenues for state operations, the legislative assembly consents to the following capital construction program:

Completion of the air condition and heating control units and modification of fourth floor for the library at Montana State University—one hundred fifty thousand dollars ($150,000).

Approved: February 27 1969.

HOUSE JOINT RESOLUTION NO. 18

A Joint Resolution of the Senate and House of Representatives Consenting to an Addition and Renovation to the Student Health Center at Montana State University.

WHEREAS, section 88-3316 [82-3316], R.C.M. 1947, provides, that with certain exceptions, a building costing more than twenty-five thousand dollars ($25,000) may not be constructed without the consent of the legislative assembly, and

WHEREAS, section 88-3316 [82-3316], R.C.M. 1947, further provides that when a building is to be financed in such a manner as not to require legislative appropriation of moneys, such consent may be in the form of a joint resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

HeinOnline -- 1969 vol. II 1163 1969

That, subject to the availability of funds, other than the appropriated funds from regular state revenues for state operations, the legislative assembly consents to the following capital construction program:

Addition to and renovation of the Student Health Center at Montana State University — two hundred seventy-five thousand dollars ($275,000).

Approved: February 27, 1969.

HOUSE JOINT RESOLUTION NO. 19

A Joint Resolution of the Senate and House of Representatives Consenting to Renovation of the Health Service Building at the University of Montana.

WHEREAS, section 88-3316 [82-3316], R.C.M. 1947, provides, that with certain exceptions, a building costing more than twenty-five thousand dollars ($25,000) may not be constructed without the consent of the legislative assembly, and

WHEREAS, section 88-3316 [82-3316], R.C.M. 1947, further provides that when a building is to be financed in such a manner as not to require legislative appropriation of moneys, such consent may be in the form of a joint resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That, subject to the availability of funds, other than the appropriated funds from regular state revenues for state operations, the legislative assembly consents to the following capital construction program:

Renovation of the Health Service Building at the University of Montana—four hundred forty thousand dollars ($440,000).

Approved: February 27, 1969.

HOUSE JOINT RESOLUTION NO. 20

A Joint Resolution of the Senate and House of Representatives Consenting to an Addition to and Renovation of the Field House at the University of Montana.

HeinOnline -- 1969 vol. II 1164 1969

WHEREAS, section 88-3316 [82-3316], R.C.M. 1947, provides that with certain exceptions, a building costing more than twenty-five thousand dollars ($25,000) may not be constructed without the consent of the legislative assembly, and

WHEREAS, section 88-3316 [82-3316], R.C.M. 1947, further provides that when a building is to be financed in such a manner as not to require legislative appropriation of moneys, such consent may be in the form of a joint resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That, subject to the availability of funds, other than the appropriated funds from regular state revenues for state operations, the legislative assembly consents to the following capital construction program:

Addition to and renovation of the Field House at the University of Montana—two million two hundred thousand dollars ($2,200,000).

Approved: February 28, 1969.

HOUSE JOINT RESOLUTION NO. 21

A Joint Resolution of the Senate and House of Representatives of the State of Montana to the Congress of the United States, the Montana Congressional Delegation and the United States Army Corps of Engineers, Urging Greater Cooperation and Consideration by the Corps of Engineers for the Fish and Wildlife Resources of Montana During Construction and Operation of Their Projects in Montana, and Urging Intensified Efforts to Improve Aquatic Environment of Fort Peck Reservoir.

WHEREAS, the fish and wildlife populations of the state of Montana have always been, still are, and always will be of vital concern to the people of this state: and

WHEREAS, the fish and wildlife of Montana are becoming increasingly more valuable economically as well as aesthetically; and

WHEREAS, although some Corps of Engineers projects have demonstrated an ability to improve fishing as in certain water level manipulations at Fort Peck; many projects, such as the project on the Fisher River, have severely damaged Montana fish and wildlife habitat; and

HeinOnline -- 1969 vol. II 1165 1969

WHEREAS, the need for close coordination and cooperation between the Corps of Engineers and the responsible state fish and wildlife management agency is obvious.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Corps of Engineers of the Montana Fish and Game Commission continue and intensify their cooperative efforts to obtain a suitable aquatic environment in Fort Peck Reservoir for the production of game fish, particularly northern pike, and

BE IT FURTHER RESOLVED, that the corps of engineers do everything possible to minimize the damage to fish and wildlife habitat and to completely mitigate unavoidable losses during project construction.

BE IT FURTHER RESOLVED, that the Secretary of State is instructed to send copies of this resolution to the Montana Fish and Game Commission and to the Chief of Engineers of the Corps of Engineers.

Approved: March 4, 1969.

HOUSE JOINT RESOLUTION NO. 22

A Joint Resolution of the Senate and House of Representatives Requesting That the Governor Appoint a Task Force to Study the Complex Problems of the Montana Indians.

WHEREAS, there are some 36,000 people of American Indian descent living within the boundaries of the state of Montana, approximately 25,000 of whom are living within the exterior boundaries of seven reservations and the remainder of whom are scattered throughout the state of Montana, and

WHEREAS, the conditions of these reservations and of other Indian communities are deplorable and far below the standards of the rest of the state of Montana, and

WHEREAS, nine out of ten houses on the Montana Indian reservations are beneath normal standards of comfort, safety, health, and decency, and

WHEREAS, the unemployment rate on the Indian reservations is 40 to 50 per cent being seven to eight times the national average, and

HeinOnline -- 1969 vol. II 1166 1969

WHEREAS, because of the above conditions, the average life span of people of Indian descent is 42 years, 20 years less than the national average of 62 years, and

WHEREAS, one out of two Indian students drop out of school without completing high school, and the average level of education on the reservations is eight years, two-thirds the national average of 12 years, and

WHEREAS, there is an alarmingly high rate of drop-outs on the college level, at times as high as 95 percent, and

WHEREAS, the average income of the Montana Indian is far beneath the poverty level; the reservations being capital-starved areas where economic growth is practically nil despite recent efforts of the office of Economic Opportunity and Economic Development Administration and despite the administration by the federal Bureau of Indian Affairs for the past 114 years, and

WHEREAS, excessive consumption of alcohol and alcoholic abuse by Indians have led to crime and a disproportionate welfare burden, and

WHEREAS, the Indian suicide rate, which is approximately 20 times higher than the national average, is a reflection of the hopeless condition of the First Americans, and

WHEREAS, there are able and concerned Indian people within the state of Montana who wish a firm course of action to be taken to alleviate the aforementioned conditions for the betterment of the American Indians of Montana, and

WHEREAS, to the knowledge of the concerned Indians and non-Indian friends there has never been a statewide study contemplated or initiated.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the governor of Montana is requested to appoint a task force to thoroughly study the complex conditions of Montana's Indians and suggest a course of action to the 42nd Legislative Assembly of Montana, and

BE IT FURTHER RESOLVED, that the task force be composed of competent representatives of: Indians of the seven reservations, counties with Indian population, clergy, six units of the University System and private colleges, the Montana Advisory Council to the

HeinOnline -- 1969 vol. II 1167 1969

United States Commission on Civil Rights, and a representative cross section of private citizens of impartial mind, and

BE IT FURTHER RESOLVED, that the Secretary of State is directed to send a copy of this resolution to the Honorable Forrest Anderson, Governor of Montana.

Approved: March 11, 1969.

HOUSE JOINT RESOLUTION NO. 25

A Joint Resolution of the Senate and House of Representatives of the State of Montana Consenting to an Office Building to be Constructed as an Investment by the Teachers Retirement Board.

WHEREAS, Section 82-3316, R.C.M. 1947, provides that, with certain exceptions, a building costing more than twenty-five thousand dollars ($25,000) may not be constructed without the consent of the legislative assembly; and

WHEREAS, Section 82-3316, R.C.M. 1947, further provides that when a building is to be financed in such a manner as not to require legislative appropriation of moneys, the consent shall be in the form of a joint resolution; and

WHEREAS, the Teachers Retirement Board could construct a building using funds from the teachers' retirement account in the agency fund which would not only provide office space for the board, but would also be a wise and prudent investment because additional office space in the building could be rented to other state agencies or private persons.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That, subject to the availability of funds, other than appropriated funds, the legislative assembly consents to the following capital construction program:

Office building to be constructed in Helena by the Teachers Retirement Board for office space and also for space to be rented, funds not in excess of one hundred fifty thousand dollars ($150,000) to be provided from the teachers' retirement account in the agency fund.

Approved: March 3, 1969.

HeinOnline -- 1969 vol. II 1168 1969

HOUSE JOINT RESOLUTION NO. 26

A Joint Resolution of the Senate and House of Representatives Requesting That Cities and Counties Review the Feasibility of Joint Use of Facilities, Space, Equipment, and Personnel With the Objective of Effecting Greater Economy and Avoiding Duplication.

WHEREAS, in many counties of the great state of Montana there exist cities that maintain their own facilities, space, equipment and personnel, and

WHEREAS, in those same counties, the county governments maintain their own facilities, space, equipment and personnel, and

WHEREAS, in many cases, the cities and counties could make joint use of said facilities, space, equipment and personnel, and

WHEREAS, said joint use of facilities, space, equipment and personnel would avoid duplication of effort and expenditure of unnecessary tax dollars.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the city fathers of the cities of our state and the respective boards of county commissioners of our counties review the availability and feasibility of joint use of their facilities, space, equipment and personnel, and where reasonable and in the best interests of the citizens of their cities and counties to the extent feasible, make provision for the joint use of their facilities, space, equipment and personnel.

BE IT FURTHER RESOLVED, that the secretary of state is instructed to duplicate copies of this resolution and send a copy to each board of county commissioners and to each incorporated city and town.

Approved: February 27, 1969.

HOUSE JOINT RESOLUTION NO. 27

A Joint Resolution of the Senate and House of Representatives to the Montana Congressional Delegation and to the Secretary of Agriculture Asking That Appropriate Changes Be Made in Federal Statutes so That Montana Meats, Inspected Under State In-

HeinOnline -- 1969 vol. II 1169 1969

spection Which Has Been Approved as Equal to Federal Inspection Standards, May Be Shipped in Interstate Commerce.

WHEREAS, Congress passed the Wholesome Meat Act in 1967, which act provides that a state meat inspection system must be equal to that of the federal system, and

WHEREAS, federal standards are now required of all meat and meat food products sold for human consumption in this country, and

WHEREAS, Montana has entered into an agreement with the Secretary of Agriculture pursuant to which Montana has developed and is administering an approved state meat inspection program which is at least equal to federal program, and

WHEREAS, meat prepared for distribution in interstate commerce is still subject to federal inspection, and

WHEREAS, the structure of state meat inspection is being weakened because, although it meets federal standards, it is used only for intrastate processing plants, and

WHEREAS, there seems to be no economic justification nor valid reason for keeping state inspection which is equal to federal inspection limited to a very few small plants.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That Congress amend the proper federal laws to provide that states meeting meat inspection standards which are at least equal to federal inspection standards, be allowed to inspect meat prepared for interstate commerce, and

BE IT FURTHER RESOLVED, that the secretary of state is directed to send a copy of this resolution to each member of the Montana Congressional Delegation and to the Secretary of Agriculture.

Approved: February 24, 1969.

HOUSE JOINT RESOLUTION NO. 29

A Joint Resolution of the Senate and House of Representatives of the State of Montana Encouraging the State Superintendent of Public Instruction to Compile for the Legislative Council a Report on Programs of Shared Services for Local School Districts.

HeinOnline -- 1969 vol. II 1170 1969

WHEREAS, many local school districts lack the human and material resources to provide efficiently and economically many types of educational programs needed to prepare students for a complex and changing society, and

WHEREAS, an increasing number of specialists, programs, and supportive services are required to produce and maintain a curriculum which more fully serves the needs of children, and

WHEREAS, the efficiency and economy of the educational program may be increased through the development of well planned shared service programs in such areas as purchasing, teacher recruiting, transportation and administration, and

WHEREAS, the needs of children vary extensively from child to child according to the child's abilities, interests, and talents, and

WHEREAS, Montana's problems of population distribution, distance, and system of district organization make it very difficult for a significant number of school districts to provide necessary services, and

WHEREAS, shared service programs have shown themselves to be efficient, economical, and effective in providing needed services for youth, both in Montana and throughout the United States.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the State Superintendent of Public Instruction Compile a report on the potential of, benefits of, and problems associated with programs of shared services.

BE IT FURTHER RESOLVED, that the State Superintendent of Public Instruction may, in his discretion, appoint any advisory persons or groups to assist in gathering information for this report and may, in his discretion, request assistance from the Montana University System, and

BE IT FURTHER RESOLVED, that the State Superintendent of Public Instruction should report his findings to the Montana Legislative Council.

BE IT FURTHER RESOLVED, that the Secretary of State is directed to send copies of this resolution to the State Superintendent of Public Instruction and the Executive Director of the Legislative Council.

Approved: March 11, 1969.

HeinOnline -- 1969 vol. II 1171 1969

HOUSE JOINT RESOLUTION NO. 30

A Joint Resolution of the Senate and House of Representatives of the State of Montana Requiring the National Park Service to Advertise, Erect Signs and Information Posts and Otherwise Emphasize the Importance of the Chief Joseph Battleground at the Site of the Battle of the Bear's Paw.

WHEREAS, the battle of the Bear's Paw which took place between September 30, and October 5, 1877, between the U.S. Army and the Nez Perce Indians led by Chief Joseph, ended the last major Indian war in the United States, and

WHEREAS, for Chief Joseph and his hungry and freezing followers the battle was one of retreat, withdrawal, refusal to surrender their way of life, and a desperate bid for freedom which was lost when they were within just a few miles of that freedom, in Canada, and

WHEREAS, this battle terminated one of the most extraordinary Indian wars on record throughout which the Indians displayed a courage and skill that elicited universal praise, and

WHEREAS, although Chief Joseph's pathetic statement upon surrender, which ends, "From where the sun now stands I will fight no more forever" is well known and recognized, the site of the battlefield named after him because of his final courageous stand is not well known.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the National Park Service is requested to circulate more information about the Chief Joseph Battlefield, to erect and staff a suitable visitors' information center at the site, and wherever appropriate to erect additional signs and information posts which will attract travelers from throughout the nation to this most important and inspiring historic site.

BE IT FURTHER RESOLVED, that the secretary of state is requested to send a copy of this resolution to the Director of the National Park Service and a copy to the Secretary of the Interior.

Approved: March 13, 1969.

HeinOnline -- 1969 vol. II 1172 1969

HOUSE JOINT RESOLUTION NO. 31

A Joint Resolution of the Senate and House of Representatives of the State of Montana to the Honorable Mike Mansfield, Senator, the Honorable Lee Metcalf, Senator, the Honorable Arnold Olsen, Representative, and the Honorable James Battin, Representative, and to Other Federal Officials Connected With the Administration of Public Lands Asking That Congress Enact Legislation Permitting Twenty-Five Percent (25%) of the Gross Sales of National Forest Products to Be Deposited in the Funds of the County Where the Products Are Grown to Replace the Tax Loss to the Counties Wherein These Public Lands Are Located.

WHEREAS, of all public lands in the state of Montana, two-fifths (2/5) are either owned or controlled by the federal government; and

WHEREAS, the consequences of governmental policies with regard to these lands are of vital importance to the state of Montana; and

WHEREAS, Congress has created a public land law review to consider and prepare legislation with regard to federally controlled public lands; and

WHEREAS, many other federal laws exist and are being enforced which will affect the future uses and development of public lands; and

WHEREAS, the federal policy with regard to the disposition and uses of public lands recognizes the multiple use concept; and

WHEREAS, the state of Montana endorses the principle that multiple uses of public lands should be recognized at all levels of representation on governmental and administrative boards.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That Congress is requested to provide by legislation that twenty-five percent (25%) of the gross receipts of all sales of national forest products be deposited in the funds of the counties in which they are grown to replace the tax losses to the counties wherein these public lands are located.

BE IT FURTHER RESOLVED, that the Secretary of State is instructed to send copies of this resolution to the Honorable Mike Mansfield, the Honorable Lee Metcalf, the Honorable Arnold Olsen,

HeinOnline -- 1969 vol. II 1173 1969

and the Honorable James Battin, to the Secretary of the Department of Agriculture and to the Secretary of the Department of the Interior.

Approved: March 11, 1969.

HOUSE JOINT RESOLUTION NO. 33

A Joint Resolution of the Senate and House of Representatives Asking That the Montana Congressional Delegation Take Action Necessary to Insure That the Federal Government Will Continue to Make Payments for Certain Persons in State Institutions.

WHEREAS, at the present time the federal government makes payments to the state of Montana for indigent Indian patients at various state institutions; and

WHEREAS, the federal government, and more particularly the Department of Health, Education, and Welfare and the Department of the Interior, Bureau of Indian Affairs, have indicated that the state will not receive these payments, amounting to approximately one-half million dollars, during the 1969-1971 biennium; and

WHEREAS, these payments have in the past contributed to more than twenty percent (20%) of the total reimbursements to the state institutions, including Warm Springs State Hospital, Boulder River School and Hospital, Galen State Hospital and Retarded Unit, Montana Children's Center, Montana Veterans' Home, and the Center for the Aged; and

WHEREAS, although payments have been made to the state for indigent Indian patients, the state is concerned with all of its citizens of whatever race, creed, or color and must take resolute steps to insure that all persons receive such care and treatment as they rightly deserve under the general welfare provisions of the state and federal constitutions; and

WHEREAS, the arbitrary discontinuance of payments contemplated by the federal government would place a heavy burden upon the state of Montana, a state with both a large Indian population and large tracts of tax exempt property owned by the federal government; and

WHEREAS, the loss of more than one-half million dollars in revenue now being used to implement the care received by all Montana

HeinOnline -- 1969 vol. II 1174 1969

citizens, regardless of race or color, who are residents of these institutions, would have the effect of diminishing necessary care for all Montana citizens, regardless of race or color, resident in these state institutions.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Montana congressional delegation is urged to take such action as may be necessary to forestall and reverse the contemplated change in policy by the federal government regarding reimbursement payments to the state for patients in state institutions, which would greatly burden the state of Montana financially as well as possibly reduce the amounts and quality of health services now given to a deserving and large segment of the state population.

BE IT FURTHER RESOLVED, that the secretary of state is instructed to send copies of this resolution to each member of the Montana congressional delegation, to the Secretary of the Department of Health, Education, and Welfare, and to the Secretary of the Department of Interior.

Approved: February 24, 1969.

SENATE JOINT RESOLUTION NO. 2

A Joint Resolution of the Senate and House of Representatives of the State of Montana Requesting That the Legislative Council Study the Railroad Commission, Ex Officio the Public Service Commission, and Submit a Written Report to the Forty-Second Legislative Assembly.

WHEREAS, the legislature established the railroad commission in 1907; and

WHEREAS, the legislature established the public utilities commission in 1913 and declared the board of railroad commissioners to be ex officio the public service commission; and

WHEREAS, the railroad commission, ex officio public service commission, has not been reviewed extensively by the legislative assembly for a long span of years; and

WHEREAS, the legislative assembly should ever be on the alert to provide reorganized forms of government more capable of meeting changing conditions; and

HeinOnline -- 1969 vol. II 1175 1969

WHEREAS, it would be in the public interest of the people of the state of Montana to know if the rate making practices of this state are up-to-date and how Montana compares with other states.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the legislative council is requested to conduct a study of the organization, procedures, and operation of the railroad commission, ex officio public service commission, in this state and to include comparative data on rate making in other states.

BE IT FURTHER RESOLVED, that the legislative council is requested to submit a written report of its findings, together with recommendations and implementing legislation, if necessary, to the forty-second legislative assembly.

BE IT FURTHER RESOLVED, that the board of railroad commissioners, ex officio public service commission, provide the legislative council with any information and assistance necessary to complete this study.

BE IT FURTHER RESOLVED, that the secretary of state is instructed to send copies of this resolution to the board of railroad commissioners and to the executive director of the legislative council.

Approved: January 29, 1969.

SENATE JOINT RESOLUTION NO. 3

A Joint Resolution of the Senate and House of Representatives of the State of Montana, to the United States Congress, Urging That the Federal Government Establish a Multistate Vocational Education Center at the Glasgow Air Force Base.

WHEREAS, the Glasgow Air Force Base was constructed at a cost of more than one hundred million dollars; and

WHEREAS, this facility is no longer being used as a military installation; and

WHEREAS, the facility is too large to be operated efficiently by the state of Montana; and

WHEREAS, there is demonstrated need for additional facilities for vocational education in Montana and also in the surrounding

HeinOnline -- 1969 vol. II 1176 1969

states of the Upper Midwest and Northwest portions of the nation; and

WHEREAS, the Glasgow Air Force Base offers an excellent possibility for the development of a multistate vocational education center to serve the Upper Midwest and Northwest regions of the nation.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the legislative assembly of the state of Montana urges the United States Congress to enact legislation that would establish a multistate vocational education center at the Glasgow Air Force Base utilizing all or a part of the existing physical facilities.

BE IT FURTHER RESOLVED, that the legislative assembly of Montana urges the Montana congressional delegation to support any federal legislation to accomplish this purpose.

BE IT FURTHER RESOLVED, that the secretary of state is instructed to send copies of this resolution to the Speaker of the United States House of Representatives, the President of the United States Senate, the Honorable Mike Mansfield and the Honorable Lee Metcalf, Senators from the state of Montana, and the Honorable Arnold Olsen and the Honorable James Battin, Congressmen from the state of Montana.

Approved: February 10, 1969.

SENATE JOINT RESOLUTION NO. 4

A Joint Resolution of the Senate and House of Representatives of the State of Montana Requesting That the Legislative Council Recodify the Public School Laws and Laws Pertaining to the Montana University System.

WHEREAS, the 1965 Legislature appropriated $18,000 to the Legislative Council for a recodification of the public school laws contained in Title 75 of the Revised Codes of Montana 1947, and

WHEREAS, the Council was directed to recodify the school laws, but the recodification was restricted to a formal revision only involving the consolidation of duplicate provisions, elimination of conflicts, and the deletion of unnecessary and archaic language, and

HeinOnline -- 1969 vol. II 1177 1969

WHEREAS, although the recodification was completed, the recodified school laws contained in Senate Bill No. 50 of the 1967 Legislative Session did not pass, and

WHEREAS, unless the recodification project is reviewed in detail in the near future, changes will make the work accomplished to date obsolete, and

WHEREAS, the statutes pertaining to the Montana University System have become obsolete and badly in need of change to reflect present day needs.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislative Council is requested to prepare a formal revision of the laws pertaining to public schools contained in Title 75 of the Revised Codes of Montana 1947.

BE IT FURTHER RESOLVED, that the Legislative Council may, in its discretion also recommend changes in the substance of public school laws in addition to the formal revision of existing laws.

BE IT FURTHER RESOLVED, that the Legislative Council is requested to prepare a revision of the laws pertaining to the Montana University System making changes as deemed necessary and desirable to provide the state with a modern, effective code for the University System.

BE IT FURTHER RESOLVED, that the Council may appoint advisory persons or groups as it deems necessary in the conduct of this study.

BE IT FURTHER RESOLVED, that the Executive Secretary of the Montana University System, Superintendent of Public Instruction, and Attorney General are requested to consult and advise the Council during the recodification of the public school laws and the laws pertaining to the Montana University System.

BE IT FURTHER RESOLVED, that the Legislative Council is requested to prepare a formal written report and any legislation necessary to implement its recommendation for consideration by the Forty-Second Legislative Assembly.

BE IT FURTHER RESOLVED, that the Secretary of State is instructed to send copies of this resolution to the Executive Director of the Legislative Council, Executive Secretary of the Montana Uni-

HeinOnline -- 1969 vol. II 1178 1969

versity System, Superintendent of Public Instruction, and the Attorney General.

Approved: January 23, 1969.

SENATE JOINT RESOLUTION NO. 5

A Joint Resolution of the Senate and House of Representatives of the State of Montana Requesting that the Legislative Council Expand Its Study of Property Taxation Conducted During the 1959-60 Interim Which Was Supplemented by Its Study of Property Taxation and the Property Classification Law Conducted During the 1963-64 Interim Its Study of Taxation Conducted During the 1965-66 Interim and Its Study of the Corporation License Tax Conducted During the 1967-68 Interim and Include in This Expanded Study Conclusions Regarding the Equity of the Present Tax Structure and Any Recommendations Necessary to Make Taxation More Equitable in Montana.

WHEREAS, during the 1959-60 interim the Legislative Council conducted a study of property taxation in Montana, and during the 1963-64 interim conducted a supplemental study of property taxation and the Montana property classification law, and

WHEREAS, although substantial improvement in appraisal and assessment of properties for taxation has been made in recent years, serious and inequitable variations in assessment levels still appear to exist, and additional problems in property taxation remain to be solved, and

WHEREAS, during the 1965-66 interim the Legislative Council, with assistance from professional economists from the University of Montana, Montana State University, and the State Board of Equalization conducted a study of the Montana tax structure, and

WHEREAS, due to limitations of time and data available, this study was essentially a study of the taxation of individuals, and

WHEREAS, during the 1967-68 interim, the Council conducted a study under two resolutions, one requesting a study of the corporation license tax and the other requesting a study of all aspects of the taxation of corporations in Montana, and

WHEREAS, because of the emphasis on the Montana corporation license tax, the 1967-68 study was restricted to that tax only, excluding other aspects of the taxation of corporations in the state, and

HeinOnline -- 1969 vol. II 1179 1969

WHEREAS, during the conduct of these two studies, a substantial amount of data were collected and prepared in form for analysis by computers, and

WHEREAS, the data collected are essentially for yearly periods, yet data covering a period of time must be available before firm conclusions can be drawn regarding the equity of taxation in the state, and

WHEREAS, there is a need for a determination of the equity of taxation under the present tax structure of the state.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislative Council is requested to expand its study of taxation conducted during the 1965-66 interim and its study of the Montana corporation license tax conducted during the 1967-68 interim.

BE IT FURTHER RESOLVED, that the Legislative Council is requested to include in this expanded study, data covering a period of several years for each tax, data on all aspects of the taxation of corporations in the state, and conclusions regarding the equity of the present tax structure together with any recommendations necessary to make taxation more equitable in Montana.

BE IT FURTHER RESOLVED, that the Legislative Council is requested to expand its study of property taxation conducted during the 1959-60 interim and its study of property taxation and the Montana Property Classification Law conducted during the 1963-64 interim, particularly with respect to the appraisal and assessment of properties for taxation and the functioning of the Property Classification Law.

BE IT FURTHER RESOLVED, that the Legislative Council may, in its discretion, appoint any necessary advisory persons or groups in the conduct of this study and may request assistance from the State Board of Equalization and units of the Montana University System.

BE IT FURTHER RESOLVED, that the Legislative Council may retain any consultants necessary for the conduct of this study.

BE IT FURTHER RESOLVED, that the Legislative Council is requested to submit a formal report, together with implementing legislation if necessary, to the Forty-Second Legislative Assembly.

HeinOnline -- 1969 vol. II 1180 1969

BE IT FURTHER RESOLVED, that the Secretary of State is directed to send copies of this resolution to the Executive Director of the Legislative Council and the Chairman of the State Board of Equalization.

Approved: February 20, 1969.

SENATE JOINT RESOLUTION NO. 9

A Joint Resolution of the Senate and House of Representatives Creating a Commission to Study the Question of Whether or Not Graduates of Schools of Osteopathy Are or May Be Qualified to Be Permitted to Take the Examination Now Required for the Practice of Medicine in Montana.

WHEREAS, schools of osteopathy in the United States teach a full healing arts course for physicians or have become schools of medicine and the question has been raised as to the qualifications of doctors of osteopathy to be permitted to take the examination now required for the practice of medicine in Montana.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Governor of Montana is hereby authorized and empowered to appoint a commission composed of five (5) members, two (2) of such members to be Doctors of Medicine authorized to practice in Montana, one to be a Doctor of Osteopathy, and the remaining two (2) members to represent the public. The Governor shall designate one of the public members as Chairman.

BE IT FURTHER RESOLVED, that it shall be the duty of this commission to investigate and study the quality of education and training provided in the schools or colleges of osteopathy in the United States for the purpose of determining whether or not the graduates of such schools may, or may hereafter, be qualified to take the examination now required for the issuance of a license to practice medicine in Montana and upon passing such examination to be licensed to practice medicine in Montana, and to report its finding to the Governor for transmittal to the 1971 Session of the Legislative Assembly.

BE IT FURTHER RESOLVED, that the secretary of state is directed to send a copy of this resolution to the Governor.

Approved: February 2, 1969.

HeinOnline -- 1969 vol. II 1181 1969

SENATE JOINT RESOLUTION NO. 10

A Joint Resolution of the Senate and House of Representatives of the State of Montana, to the Montana Congressional Delegation and the Chief of the United States Forest Service Urging the Preservation of Natural and Aesthetic Value of Clear Cut Timber Sales as Viewed From Our Highways.

WHEREAS, recent federal and state legislation emphasizes the preservation of aesthetic values of our natural surroundings, particularly as viewed from our primary and interstate highways, and

WHEREAS, this legislation is timely and pertinent to the conservation of our natural heritage which surrounds us each and every time we travel our highways, and

WHEREAS, policies and legislation which conserve and enhance our natural beauty are in the public interest.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the legislative assembly of the state of Montana recognize the public interest involved in preserving and protecting our scenic beauty as seen from our highways, and strongly requests that the United States Forest Service, in its continued administration of the multiple use concept concerning clear cut timber sales, exercise renewed influence in assuring an irregular or natural shape to such clear cuts as opposed to some harsh images of sharp geometric patterns previously cut into our forested highway scenes, and the elimination wherever possible of existing harsh and geometric patterns caused by previously cut and forested timber areas, and

BE IT FURTHER RESOLVED, that the Secretary of State be instructed to send copies of this resolution to the Honorable Mike Mansfield and Honorable Lee Metcalf, senators from the state of Montana; to the Honorable Arnold Olsen and Honorable James Battin, congressmen from the state of Montana, and Edward Cliff, chief of the United States Forest Service, United States Department of Agriculture.

Approved: February 10, 1969.

SENATE JOINT RESOLUTION NO. 11

A Joint Resolution of the Senate and House of Representatives of the State of Montana Requesting that the Legislative Council

HeinOnline -- 1969 vol. II 1182 1969

Conduct a Study of Programs and Laws for the Benefit of Senior Citizens in the State of Montana.

WHEREAS, there are over sixty thousand (60,000) senior citizens or persons over the age of sixty-five (65) living within the state of Montana the greater part of which are living in a retired status, and

WHEREAS, said senior citizen population is growing at a much faster rate than the average population in the state of Montana; between 1950 and 1960 the sixty-five plus (65+) population grew twenty-eight percent (28%) while the average state population grew at only half that rate or fourteen percent (14%), and

WHEREAS, these senior citizens have given the productive years of their lives towards creating the great society of wealth and plenty which we of the present generation are enjoying, and

WHEREAS, we of the present generation should have a feeling of gratitude and responsibility towards these senior citizens, and

WHEREAS, many of the senior citizens of Montana still enjoying good health, find themselves upon retirement with little or nothing to do or any diversions to keep themselves occupied, and

WHEREAS, a communication gap is existing and deepening between the senior citizens and the present generation wherein the latter is not giving sufficient consideration or help for the increasing problems of the elderly, and

WHEREAS, the average life expectancy is becoming greater with time; the average life expectancy in 1900 was forty-seven (47) years, the average life expectancy today is seventy-five (75) years and by 2000 the average life expectancy is projected to be over one hundred (100) years all of which indicate that the senior citizens of today and the future have many years of retirement to look forward to, and

WHEREAS, many senior citizens able to work find themselves unable to do so because of mechanization and automation which eliminate many of the jobs which they are able to do, and

WHEREAS, a recent United States government survey revealed that nearly one-third (1/3) of the senior citizens of America are considered poor by government standards; a Montana senior citizens survey revealed that the average senior citizen having an income of fifteen hundred dollars ($1500) per year expended ap-

HeinOnline -- 1969 vol. II 1183 1969

proximately seventeen hundred fifty dollars ($1750) in the same period of time, and

WHEREAS, there are many programs to help senior citizens being provided throughout the country by both government and private agencies which information would be helpful in proposing new legislation and programs for the benefit of the senior citizens of Montana, and

WHEREAS, such a survey should be made in the following areas; specifically in the following areas: recreational and leisure time activities, counseling, adult education, transportation services, employment, information and referral services, health services, visiting and reassurance service, financial aid, etc.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the legislative council is requested to conduct a study of programs and laws for the benefit of the senior citizens in effect throughout other parts of the nation and to make a comprehensive evaluation thereof, specifically in the following areas: recreational and leisure time activities, counseling, adult education, transportation services, employment, information and referral services, health services, visiting and reassurance service, financial aid, etc., and

BE IT FURTHER RESOLVED, that the legislative council is requested to submit a written report of its findings together with recommendations and implementing legislation to the forty-second legislative assembly, and

BE IT FURTHER RESOLVED, that the secretary of state is instructed to send copies of this resolution to the executive director of the legislative council.

Approved: March 3, 1969.

SENATE JOINT RESOLUTION NO. 12

A Joint Resolution of the Senate and House of Representatives of the State of Montana Requesting that the Legislative Council Conduct a Study of the Feasibility and Desirability of an Administrative Procedures Act and Report its Findings to the Forty-second Legislative Assembly.

HeinOnline -- 1969 vol. II 1184 1969

WHEREAS, the grant of rule-making authority, which is quasi-legislative power, to administrative agencies in Montana has been broad in the past, and

WHEREAS, the grant of power to hold administrative hearings, which is quasi-judicial power, to administrative agencies in Montana has also been broad in the past, and

WHEREAS, the broad grants of quasi-legislative and quasi- judicial power to administrative agencies make it increasingly important that the rights of citizens affected by actions and decisions of administrative agencies be protected adequately, and

WHEREAS, at the present time there is wide disparity in Montana statutes granting rule-making authority and authority to hold hearings to administrative agencies, and this disparity has resulted in substantial differences in the procedures used by administrative agencies for adopting rules and holding hearings, and

WHEREAS, these differences make it extremely difficult for citizens to determine what procedures are used by a particular agency, and

WHEREAS, in some instances ambiguous language in the statutes, lack of legal counsel, or both, may have inhibited administrative agencies in taking action even though that action might have been desirable, and

WHEREAS, some administrative agencies have codified their rules and procedures, but often the codification available to citizens is obsolete thus making it extremely difficult to determine what rules and procedures are in effect at any particular time, and

WHEREAS, lacking any central filing, the only method by which current rules can be obtained is by contacting the appropriate agency of state government, and

WHEREAS, because there is no central filing of administrative rules, it is extremely difficult at the present time to determine whether or not duplication or conflicts may exist in rules adopted by different administrative agencies, and

WHEREAS, the national conference of commissioners on uniform state laws has recognized the need for standardization of administrative rule-making and hearing procedures and recommend a model act in this area, and

WHEREAS, if such an act were adopted, it might be desirable

HeinOnline -- 1969 vol. II 1185 1969

to exclude certain agencies that have well defined rules and hearing procedures.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the legislative council is requested to conduct a detailed study of the statutes granting quasi-legislative and quasi-judicial powers to administrative agencies of the state.

BE IT FURTHER RESOLVED, that the legislative council is requested to determine whether it would be feasible and desirable to adopt a uniform administrative procedure act like that recommended by the national conference of commissioners on uniform state laws.

BE IT FURTHER RESOLVED, that the legislative council consult with all state agencies which might be affected by an administrative procedure statute and, based upon the information obtained, consider the feasibility and desirability of excluding those agencies which have well defined rule-making and hearing procedures established.

BE IT FURTHER RESOLVED, that the legislative council may appoint advisory persons and groups as it deems necessary and advisable, and may also consider contracting with the university of Montana law school for the basic research necessary prior to the formulation of conclusions and recommendations.

BE IT FURTHER RESOLVED, that the legislative council is requested to prepare a written report, together with any necessary implementing legislation, for consideration by the forty-second legislative assembly.

BE IT FURTHER RESOLVED, that the secretary of state is directed to send copies of this resolution to the executive director of the legislative council and to all members of the Montana commission on uniform state laws.

Approved: February 25, 1969.

SENATE JOINT RESOLUTION NO. 13

A Joint Resolution of the Senate and House of Representatives Requesting the Legislative Council in Consultation with Recognized Public Health Authorities to Conduct a Study of the Laws

HeinOnline -- 1969 vol. II 1186 1969

Relating to the Dairy Industry in Montana, with a View to the Feasibility and Desirability of Consolidating Under One State Agency the Present Functions of the Several Montana Agencies that now Regulate the Montana Dairy Industry, Including the Department of Agriculture, Livestock Sanitary Board, State Board of Health, State Board of Food Distributors, and Milk Control Board, and Report its Findings and Recommendations, Together with any Necessary Legislation, to the Forty-second Legislative Assembly.

WHEREAS, at present at least three (3) federal and five (5) state agencies carry out control procedures of dairy industry, and

WHEREAS, dairy industry operators feel there may be duplication of regulatory control that may be expensive, confusing, time consuming and unnecessary, and

WHEREAS, dairy industry operators are oftentimes confused in knowing which state agency is responsible for interpretation or enforcement of laws pertaining to milk, milk products and related or imitation milk or milk and dairy products, and

WHEREAS, directors of these state agencies oftentimes need to contact the attorney general to determine which agency is responsible for enforcement or interpretation of specific laws, rules or regulations as apply to a particular milk or dairy product, or imitation of same, and

WHEREAS, joint action or cooperation between federal and several state agencies in intrastate and interstate regulations governing production, processing, manufacturing, labeling and marketing of milk, and dairy products; imitation milk, and dairy products, may make this cooperation with federal agencies difficult.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the legislative council is hereby requested to conduct a study of the laws regulating the dairy industry in Montana to determine if it is feasible and desirable to combine under one (1) state agency the functions of the several agencies that now regulate the production, processing, labeling and marketing of milk and milk products in Montana.

BE IT FURTHER RESOLVED, that the legislative council is requested to submit a written report of its findings, together with its recommendations to the forty-second legislative assembly.

HeinOnline -- 1969 vol. II 1187 1969

BE IT FURTHER RESOLVED, that the secretary of state of Montana is directed to send copies of this resolution to the executive director of the legislative council, the department of agriculture, the livestock sanitary board, the state board of health, the state board of food distributors, and the milk control board.

Approved: February 20, 1969.

SENATE JOINT RESOLUTION NO. 14

A Joint Resolution of the Senate and House of Representatives of the State of Montana to the Congress of the United States, Urging Immediate Funds Be Allocated for the Enlargement of the Veterans Administration Hospital at Fort Harrison, Montana.

WHEREAS, the veteran population of the state of Montana has increased in excess of ten thousand veterans in the past few years, and

WHEREAS, the continual build-up of the Vietnam War indicates further increases in Montana's veteran population, and

WHEREAS, the 160-bed hospital facility presently located at Fort Harrison, Montana, is proving woefully inadequate and causing an increasing waiting list and extended periods of time in waiting.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislative Assembly of the State of Montana urgently requests the Congress of the United States to provide adequate funds to increase the present facility at Fort Harrison, Montana, to accommodate a minimum of one hundred (100) additional beds, and

BE IT FURTHER RESOLVED, that the Secretary of State is directed to send copies of this resolution to the President of the United States, to each member of Montana's Congressional delegation, and to the Administrator of Veterans Affairs, Washington, D. C.

Approved: February 10, 1969.

HeinOnline -- 1969 vol. II 1188 1969

SENATE JOINT RESOLUTION NO. 15

A Joint Resolution of the Senate and House of Representatives of the State of Montana, Asking that the President and Congress Expand the Aid Now Given by the Federal Government, Specifically to the Navajo and Hopi Indians, Under Public Law 474, Eighty-first Congress (64 Stat. 47; 25 USC, 639) to All Recognized Indian Tribes and Nations.

WHEREAS, the Federal government, under the authority of Public Law 474, Eighty-first Congress, passed April 19, 1950 (64 Stat. 47;25 USC, 639) which stated that beginning with the quarter commencing July 1, 1950, the Secretary of the Treasury shall pay quarterly to each state an amount in addition to the amounts prescribed to be paid to such state under such sections equal to eighty (80) percentum, the total amounts of contributions by the state toward expenditures during a preceding quarter by the state, under the state plans approved under the Social Security Act for old age assistance, aid to dependent children, and aid to the needy blind, to Navajo and Hopi Indians, residing within the boundaries of the state who have residence on reservations or on alloted or trust lands, with respect to whom payments are made to the state by the United States under Sections 3 (a), 403 (a), and 1003 (a), respectively, of the Social Security Act, not counting so much of such expenditure to any individual for any month as exceeds the limitations prescribed in such section, and

WHEREAS, this statute is very helpful to the Navajo and Hopi Indians, but is very discriminatory in that it does not provide similar aid to other Indian tribes and nations, nor does it include aid to permanently and totally disabled nor medical assistance, to any of the Indian tribes and nations, and

WHEREAS, it specifically does not provide aid to such Indian tribes or nations residing in the state of Montana, and

WHEREAS, Congress should take the necessary steps to include all recognized Indian tribes and nations for such aid.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the members of the Forty-first Legislative Assembly of the State of Montana ask the National Administration and the Congress of the United States to amend said Act to include all recognized Indian tribes and nations, and to expand said aid to

HeinOnline -- 1969 vol. II 1189 1969

include aid to the permanently and totally disabled and medical assistance.

BE IT FURTHER RESOLVED, that the Secretary of State is instructed to send copies of this Resolution to the President of the United States, to each member of the Montana Congressional Delegation, to the Bureau of Indian Affairs, and to the Secretary of Health, Education and Welfare.

Approved: March 3, 1969.

SENATE JOINT RESOLUTION NO. 17

A Joint Resolution of the Senate and House of Representatives to the Montana Congressional Delegation Stating That Montana, North Dakota, South Dakota, and Wyoming are now Doing Active Planning for the Development of Water and Related Resources in Order to Achieve Full Resource Potential, That Additional Time is Needed to Complete This Planning and Therefore Until Planning is Completed in the Four States of Montana, North Dakota, South Dakota, and Wyoming There Should be no Interstate-Interbasin Transfer of Water From These Four States.

WHEREAS, the upper Missouri River Basin States of Montana, North Dakota, South Dakota, and Wyoming are now doing active planning for development and use of the waters of the Missouri River and its tributaries; and

WHEREAS, task forces are preparing the Missouri Basin Comprehensive Planning Report based on full resource development potential and not limited to mere projections of historical trends, economic and otherwise; and

WHEREAS, additional time is needed for collection of more complete evidence to substantiate the abovementioned revised basis for appraising the needs of the upper Missouri River Basin States (which needs will guide state planning); and

WHEREAS, the said Missouri River Basin States have, by the O'Mahoney-Millikin Amendment to the Flood Control Act of 1944 (Sec. 1 (b), P. L. 534, 78th Congress), been granted preference in the use of Missouri River Basin Waters, which must include the preparation of plans to meet present and future needs; and

WHEREAS, plans in the four state area should consider other

HeinOnline -- 1969 vol. II 1190 1969

state and national, aesthetic, and environmental objectives which provide for the optimum utilization of Missouri River Basin waters; and

WHEREAS, there now exists a proposal which calls for the interstate diversion of water from the Missouri River Basin to states not partially or totally located in the Basin before optimum water resources potential in said upper Missouri River Basin States have been appraised or plans made.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the legislature of the state of Montana does hereby go on record as demanding its rights, under the O'Mahoney-Millikin Amendment to the Flood Control Act of 1944, to Missouri Basin water and use of that water for other purposes.

BE IT FURTHER RESOLVED that the legislature of the state of Montana does declare that its rights to Missouri Basin water would be violated by any and all diversions of water out of the states of the Missouri River Basin for any use whatsoever.

BE IT FURTHER RESOLVED that the legislature of the state of Montana does hereby remind the Congress of the United States that plans of this state will, when completed, be based on future water needs for full realization of resources potentials within the states of Montana, North Dakota, South Dakota, and Wyoming and not on historical projection, and that the state of Montana will, under the uses stated in the O'Mahoney-Millikin Amendment, and for other purposes demand such quantities of water as will be needed in support of the state water resources plan and to assure optimum water supplies for future economic security and general welfare of its citizens as part of the environment of the lives of the people in this great nation.

BE IT FURTHER RESOLVED that the legislature of the state of Montana request that no plans be initiated or implemented for any interstate-interbasin diversion of water until such times as the four states of Montana, North Dakota, South Dakota, and Wyoming have completed their state water resources plan, and a joint evaluation of such plans is made.

BE IT FURTHER RESOLVED that the Secretary of State is directed to send a copy of the resolution to each member of the Montana Congressional delegation.

Approved: February 21, 1969.

HeinOnline -- 1969 vol. II 1191 1969

SENATE JOINT RESOLUTION NO. 18

A Joint Resolution of the Senate and House of Representatives of the State of Montana Requesting That the Montana Water Resources Board Continue to Keep the Legislative Council Informed of Any Plans for the Allocation of Water to Be Used to Develop Coal Resources of the State and Requesting the Legislative Council to Compile Any Data Necessary to Keep Informed on the Use of Water for the Development of Coal Resources, and Indicating That Montana Is Interested in Maintaining Legislative Liaison With North Dakota, South Dakota, and Wyoming to Promote Cooperation in Maintaining Our Pure Environment.

WHEREAS, the future growth and prosperity of the state of Montana are vitally dependent upon the prudent management, wise use, and careful safeguarding of the available water supply of this state; and

WHEREAS, the development of eastern Montana coal deposits is concerned not only with the use of water and coal resources, but is indeed an economic development which might be of major importance to the entire eastern Montana area and the state as a whole; and

WHEREAS, coal based industries are now considering the development of the vast coal resources of eastern Montana; and

WHEREAS, the Montana Water Resources Board has done a commendable job of informing the legislature during the past interim concerning development of necessary water to develop these coal resources; and

WHEREAS, the Montana Water Resources Board has been most cooperative in keeping the Legislative Council informed of these developments during the past interim; and

WHEREAS, as elected representatives of the people, the members of the Legislative Assembly have a responsibility to keep informed of all current plans to develop the vast coal resources of eastern Montana; and

WHEREAS, the Legislative Assembly has a duty to assist in this development as may be deemed feasible and desirable; and

WHEREAS, competition for coal development with our sister states must not blind us to common interests in establishing early safeguards for maintaining our pure environment. The state must work to create and maintain legislative liaison with North Dakota, South Dakota, and Wyoming, hopeful that through cooperative ef-

HeinOnline -- 1969 vol. II 1192 1969

forts, each state will operate under similar laws to assure that water and air crossing the state borders will be maintained at purest equal value.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Montana Water Resources Board is requested to continue to keep the Legislative Council informed of progress on the development of the vast coal resources of eastern Montana and of any agreements contemplated which might affect water to be used for development from the drainage areas of the Yellowstone, Big Horn, Little Big Horn, Tongue, Powder, and Musselshell Rivers.

BE IT FURTHER RESOLVED, that the Montana Water Resources Board is requested to keep the Legislative Council informed of any basis of priorities upon which applications for water use from the above drainages shall be judged.

BE IT FURTHER RESOLVED, that the Legislative Council is requested to assist the Montana Water Resources Board in any manner it deems advisable in the compilation of data on the use of water to develop coal resources.

BE IT FURTHER RESOLVED, that the Secretary of State is directed to send copies of this resolution to the Montana Water Resources Board, the Montana Legislative Council, the North Dakota Legislative Research Committee, the South Dakota Legislative Research Council, and the Wyoming Secretary of the Senate and Chief Clerk of the House of Representatives.

Approved: February 25, 1969.

SENATE JOINT RESOLUTION NO. 19

A Joint Resolution of the Senate and House of Representatives of the State of Montana to the Congress of the United States, Urging the Congress to Provide Immediate Funds for the Construction of a Veterans Administration Domiciliary to Be Located at the Fort Harrison, Montana, Reservation Adjacent to the Existing Veterans Administration Hospital Facility.

WHEREAS, many of Montana's older veterans are being discharged with maximum hospital benefits, making them ineligible for

HeinOnline -- 1969 vol. II 1193 1969

further care and treatment in our present Veterans Administration hospitals at Fort Harrison and Miles City, Montana, and

WHEREAS, many Montana veterans are attempting to survive on a meager Veterans Administration pension, which is inadequate to purchase housing in the various Montana rest homes, and

WHEREAS, the average age of World War II veterans is reaching the point where a tremendous increase in requests for the use of Veterans Administration domiciliary facilities can be anticipated, and

WHEREAS, the closet domiciliaries for Montana's veterans are located in South Dakota and Oregon, and

WHEREAS, these domiciliaries are presently establishing waiting lists for admissions.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislative Assembly of the State of Montana makes an urgent request to the Congress of the United States to immediately provide funds for the construction of a Veterans Administration domiciliary adjacent to the Veterans Administration hospital facilities at Fort Harrison, Montana.

BE IT FURTHER RESOLVED, that the Secretary of State is instructed to send copies of this resolution to the President of the United States, to each member of Montana's Congressional Delegation, and to the Administrator of Veterans Affairs, Washington, D.C.

Approved: February 21, 1969.

SENATE JOINT RESOLUTION NO. 20

A Joint Resolution of the Senate ond House of Representatives of the State of Montana, to the Governor of the State of Montana, Requesting Creation of a Commission to Study the District Courts as to Number of Judges and Number of Judicial Districts and Boundaries Thereof.

WHEREAS, the population of the state of Montana has increased and modes of communication and transportation have changed since the judicial districts were defined and the number of district judges was established:

HeinOnline -- 1969 vol. II 1194 1969

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the governor of Montana is hereby requested to appoint a commission of five (5) members, one of whom shall be either a supreme court justice or a district court judge. The governor shall designate one of the members as chairman.

BE IT FURTHER RESOLVED, that this commission investigate and study the number of district court judges and the present boundaries of the judicial districts to determine the advisability of increasing or decreasing the number of district court judges and of increasing or decreasing the number of judicial districts and modifying the boundaries thereof, and report its finding to the governor for transmittal to the 1971 session of the legislative assembly.

BE IT FURTHER RESOLVED, that the commission, with the approval of the governor, shall be authorized to employ such assistants as it feels necessary for its work.

BE IT FURTHER RESOLVED, that the secretary of state is directed to send a copy of this resolution to the governor.

Approved: February 20, 1969.

SENATE JOINT RESOLUTION NO. 22

A Joint Resolution of the Senate and House of Representatives Requesting the Forty-first Legislative Assembly to Designate a Bi-Partisan Committee for the Purpose of Obtaining an Adequate Field Training Site for the 163rd Armored Cavalry Regiment of the Montana National Guard.

WHEREAS, the primary mission of the 163rd Armored Cavalry Regiment is training and to be prepared for rapid deployment to a combat area in time of war, and

WHEREAS, it is the responsibility of the State of Montana to provide for training facilities which will permit the regiment to progress through a training program designed to bring them to the highest level of combat readiness, and

WHEREAS, it is desirable from an economic and practical viewpoint to have the 163rd Armored Cavalry Regiment of the Montana National Guard conduct the annual field training exercises within the territorial boundaries of Montana, and

HeinOnline -- 1969 vol. II 1195 1969

WHEREAS, the training requirements for the army national guard are directed by the United States Continental Army Command, and

WHEREAS, these requirements must be satisfied in order to retain Federal recognition in the form of financial assistance to the 163rd Armored Cavalry Regiment, and

WHEREAS, present training sites available to the 163rd Armored Cavalry unit as reported by professional evaluating teams of the regular army are not adequate for the advanced unit training necessary to meet the mobilization readiness of the Department of the Army, and

WHEREAS, a thorough and comprehensive study by the Montana National Guard covering a period of several years and employing the professional military knowledge and expertise of the senior Montana National Guard commanders and staff resulting in a recognition of the inadequacies of the present field training site, and

WHEREAS, sufficient government owned land is available in northeast Montana upon which an adequate training facility could be built and used for training by the 163rd Armored Cavalry Regiment thereby assuring the continuance of this unit in its same place in Montana history.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Forty-First Legislative Assembly create a bi-partisan committee composed of members of both the House and the Senate, to study the possibility of obtaining an adequate field training site for the 163rd Armored Cavalry Regiment within the territorial boundaries of Montana.

BE IT FURTHER RESOLVED, that the committee be instructed to pay particular attention to obtaining a site south of highway number two (2) from Malta to Glasgow on the north, and the Missouri River on the south. Such instruction should not be construed as a limitation on the scope of the committee's study.

BE IT FURTHER RESOLVED, that the committee shall be composed of one (1) Democrat and one (1) Republican from the House of Representatives to be appointed by the Speaker, and one (1) Democrat and one (1) Republican from the Senate to be appointed by the Committee on Committees.

BE IT FURTHER RESOLVED, that the committee shall prepare

HeinOnline -- 1969 vol. II 1196 1969

a written report, together with recommendations and any necessary implementing legislation, to the Forty-Second Legislative Assembly.

BE IT FURTHER RESOLVED, that the Secretary of State is directed to send copies of this resolution to the Governor and to the Adjutant General.

Approved: February 26, 1969.

SENATE JOINT RESOLUTION NO. 23

A Joint Resolution of the Senate and House of Representatives Asking That the State Entomologist Take Resolute Steps to Reduce the Danger of Diseases Spread by Mosquitos and Asking That State Agencies Assist in This Effort.

WHEREAS, mosquito control in Montana has not been effective in the past and the danger of diseases spread by mosquitos is increasing particularly in the Milk River drainage of northern Montana; and

WHEREAS, the problem has been recognized by the Federal Department of Health, Education, and Welfare and that department has reported that in the Havre to Glasgow area WEE-virus was isolated from five (5) pools and this was the highest WEE-virus infection rate obtained by the Rocky Mountain Laboratory; and

WHEREAS, the current report of the state entomologist does not recognize the danger from mosquitos specifically.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the legislative assembly requests that the state entomologist take resolute steps to reduce the dangers from diseases carried by mosquitos through mosquito control measures particularly in the Milk River drainage of northern Montana.

BE IT FURTHER RESOLVED, that all state agencies are requested to cooperate with the state entomologist in this effort and assist him to the extent possible.

BE IT FURTHER RESOLVED, that the secretary of state is instructed to send copies of this resolution to the president of Montana State University and to the state entomologist.

Approved: March 3, 1969.

HeinOnline -- 1969 vol. II 1197 1969

SENATE JOINT RESOLUTION NO. 26

A Joint Resolution of the Senate and House of Representatives Asking That the Legislative Council Conduct a Study of the Feasibility of Establishing a Self-Insurance Fund for State-Owned Property.

WHEREAS, at the present time the state of Montana expends more than four hundred thousand dollars ($400,000) for insurance on state-owned property each biennium, or approximately two hundred thousand dollars ($200,000) each year, and

WHEREAS, over the past eleven (11) years actual losses of state-owned property have averaged substantially less than the insurance premium, and

WHEREAS, some states have established a self-insurance fund for state-owned property which has resulted in substantial savings to those states, and

WHEREAS, it might be both feasible and desirable for the state of Montana to establish a self-insurance fund.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislative Council is requested to conduct a study of the feasibility and desirability of establishing a self-insurance fund for state-owned property.

BE IT FURTHER RESOLVED, that the Legislative Council is requested to report its findings, together with recommendations and any necessary implementing legislation, to the Forty-Second Legislative Assembly.

BE IT FURTHER RESOLVED, that the Secretary of State is instructed to send a copy of this resolution to the Legislative Council.

Approved: February 25, 1969.

HeinOnline -- 1969 vol. II 1198 1969

EXTRAORDINARY SESSION

☆

March 10, 1969 to March 19, 1969

HeinOnline -- 1969 vol. II 1199 1969

HeinOnline -- 1969 vol. II 1200 1969

CHAPTER 1

An Act to Submit to the Qualified Electors of Montana an Amendment to the Montana Constitution Adding a New Section to Provide That All Executive and Administrative Offices, Boards, Bureaus, Commissions, Agencies and Instrumentalities, Except the Office of Governor, Lieutenant Governor, Secretary of the State, Attorney General, State Treasurer, State Auditor, and Superintendent of Public Instruction, Shall Be Allocated by Law Among Not More Than Twenty Departments No Later Than July 1, 1973; to Provide That Subsequently All New Powers or Functions Shall Be Assigned to Provide an Orderly Administrative Organization; Providing for Temporary Commissions in Addition to the Twenty Principal Departments.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. There is a new section in the Montana constitution which reads as follows:

Proposed constitutional amendment that state agencies be allocated to 20 departments by 1973—exceptions.

"Section ..... . All executive and administrative offices, boards, bureaus, commissions, agencies and instrumentalities of the executive department of state government and their respective functions, powers, and duties, except for the office of governor, lieutenant governor, secretary of the state, attorney general, state treasurer, state auditor, and superintendent of public instruction, shall be allocated by law among and within not more than twenty (20) departments by no later than July 1, 1973. Subsequently, all new powers or functions shall be assigned to departments, divisions, sections, or units in such manner as will tend to provide an orderly arrangement in the administrative organization of state government. Temporary commissions may be established by law and need not be allocated within a principal department."

Section 2. When this amendment is submitted to the electors of the state of Montana, there shall be printed on the ballot the full title and Section 1 of this act and the following words:

Ballot form.

"☐ For the above amendment.

☐ Against the above amendment."

Approved: March 17, 1969.

HeinOnline -- 1969 vol. II 1201 1969

CHAPTER 2

An Act to Appropriate $78,200 From the General Fund for the Biennium Beginning July 1, 1969, to the Bureau of Business and Economic Research to Perform a Study of Fiscal Problems as They Affect Local Government, and the State of Montana; and Further to Create an Interim Committee on Fiscal Affairs to Direct, Advise and Counsel the Bureau in the Performance of This Study.

Be it enacted by the Legislative Assembly of the State of Montana:

Appropriation for bureau of business and economic research.

Section 1. There is hereby appropriated from the general fund for the biennium beginning July 1, 1969, $78,200 to the Bureau of Business and Economic Research, university of Montana to enable the bureau to conduct a study of the fiscal problems as they affect local government and the state of Montana.

Intent.

Section 2. It is the intent of the legislature of the state of Montana that this study will be concerned with the fiscal problems of local government and state government in Montana. Its purposes will be to provide factual and analytical material that clarifies what the Montana fiscal system is and the fiscal problems faced. It will not provide recommendations regarding the types of taxation the state should use. The study will develop useful data and analytical material upon which legislators and the governor and other political leaders can base their fiscal planning.

Study to consist of.

Section 3. The study shall consist of, but not be limited to:

(1) Survey of government revenue and expenditure in Montana and federal-state-local fiscal interrelationship and shall consist of:

(a) major sources of state revenue:

(i) tax revenue

(ii) licenses, fees, and charges

(iii) federal grants-in-aid

(iv) local-to-state payments

HeinOnline -- 1969 vol. II 1202 1969

(b) local government revenue:

(i) tax revenue

(ii) licenses, fees, and charges

(iii) federal grants-in-aid

(iv) state-to-local payments

(c) state expenditures analysis

(d) local expenditures analysis

(e) projections

(2) Study of the major elements of federal, state and local taxes in the United States and Montana. The main concern will be stability, growth, burden of taxes on individuals and household units, and the effect of certain taxes on businesses.

Interim committee—members.

Section 4. (1) There is hereby created an interim committee on fiscal affairs of the forty-first legislative assembly which shall consist of the governor and four (4) members of the house of representatives who shall be appointed by the speaker of the house of representatives, no more than two (2) of whom shall be of the same political party, and four (4) members of the state senate who shall be appointed by the committee on committees of the state senate, no more than two (2) of whom shall be of the same political party. Legislative members of the committee shall be appointed not later than the last day of the extraordinary session of the forty-first legislative assembly. Any vacancy on the interim committee on fiscal affairs occurring when the legislature is not in session may be filled by the selection of another member of the legislature, by the remaining members of the committee.

Duty of interim committee.

(2) The interim committee on fiscal affairs shall provide direction, guidance and counsel to the bureau of business and economic research in their performance of the study specified by this act. The committee shall meet at least four (4) times a year, and their meeting shall be held throughout the state of Montana. The governor shall be chairman of the committee.

Expenses.

(3) A member of the committee shall receive reimbursement for necessary and actual expenses incurred in his official service on the committee.

HeinOnline -- 1969 vol. II 1203 1969

Report.

(4) The committee shall prepare a report of its activities for the forty-second legislative assembly.

Approved: March 17, 1969.

CHAPTER 3

An Act Relating to the School Foundation Program; Providing for Changes in Financial Schedules for the Maximum General Fund Budgets for School Districts, County High Schools, and Increasing the Basic County Elementary and High School Levies; Amending Sections 75-1713.1, 75-4518.1, 75-3706, 75-3618, and 75-4516.1, R.C.M., 1947; and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 75-1713.1, R.C.M., 1947, is amended to read as follows:

Changes in budget by budget board when in excess of foundation program—restrictions on budgets.

"75-1713.1. **Changes in budget by budget board when in excess of foundation program—restrictions on budgets.** If the total amount of the proposed elementary general fund expenses in the preliminary budget of any district shall exceed the foundation program of such district, the budget board shall, in the manner and subject to the limitations prescribed by section 75-1713, reduce such proposed general fund expenses to a total equal to said foundation program unless the board of trustees of said district shall establish to the satisfaction of the budget board that special circumstances exist which justify such additional expenses, and in such event a statement of the reasons for the allowance of such additional expenses shall be attached to said budget and signed by the chairman of the budget board, but the entire amount of such excess expense over the foundation program shall be paid solely from levies upon the property in such district and shall not in any manner increase the amounts to be apportioned hereunder from the county common school levy or from the moneys available for state equalization aid; and provided, that, except in the case of the existence of the emergencies specified in section 75-1716, the entire amount of such additional expense over the foundation program plus the foundation program to be included in the budget of any district shall not be

HeinOnline -- 1969 vol. II 1204 1969

greater than the maximum amounts in accordance with the following schedules: provided that nothing herein contained shall be construed as preventing the voting of an additional levy in accordance with the general school laws pertaining to the voting of additional levies.

Elementary schools.

Elementary Schools

(1) For each elementary school having an ANB of nine (9) or fewer pupils, the maximum shall be *seventy-two hundred forty-eight dollars ($7,248),* if said school is approved *as an* isolated school.

(2) For schools with an ANB of ten (10) pupils, but less than eighteen (18) pupils, the maximum shall be *seventy-two hundred forty-eight dollars ($7,248)* plus *two hundred fourteen ($214)* per pupil on the basis of the average number belonging over nine (9).

(3) For schools with an ANB of eighteen (18) pupils and employing one (1) teacher, the maximum shall be *ninety-one hundred seventy dollars ($9,170)* plus *eighty-five dollars ($85)* per pupil on the basis of the average number belonging over eighteen (18), not to exceed an ANB over twenty-five (25).

(4) For schools with an ANB of eighteen (18) pupils and employing two (2) full-time teachers, the maximum shall be *sixteen thousand four hundred seventy ($16,470)* plus *eighty-five dollars ($85)* per pupil on the basis of the average number belonging over eighteen (18), not to exceed an ANB over fifty (50).

(5) For schols having an ANB in excess of forty (40) the maximum on the basis of the total pupils (ANB) in the district for elementary pupils will be as follows:

For a school having an ANB of more than forty (40) and employing a minimum of three (3) teachers, the maximum of *five hundred eighty dollars and twenty cents ($580.20)* shall be decreased at the rate of *forty-three cents ($.43)* for each additional pupil until the total number (ANB) shall have reached a total of one hundred (100) pupils. For a school having an ANB of more than one hundred (100) pupils, the maximum of *five hundred fifty-four dollars ($554)* shall be decreased at the rate of *fifty-one cents ($.51)* for each additional pupil until

HeinOnline -- 1969 vol. II 1205 1969

the ANB shall have reached three hundred (300) pupils. For a school having an ANB of more than three hundred (300) pupils, the maximum shall not exceed *four hundred fifty-one dollars and thirty-five cents ($451.35)* for each pupil; provided that the maximum per pupil, for all pupils, ANB, shall figure on the basis of the amount allowed herein on account of the last eligible pupil, ANB, and provided further than all schools operated within the incorporated limits of a city or town shall be treated as a school unit for the purpose of this schedule.

The maximum per pupil for all pupils (ANB) and for all schools shall be computed on the basis of the amount allowed herein on account of the last eligible pupil, ANB."

Amending clause.

Section 2. Section 75-4518.1, R.C.M., 1947, is amended to read as follows:

Reduction in budget by budget board—allowance of additional expenses over foundation program.

"75-4518.1. **Reduction in budget by budget board—allowance of additional expenses over foundation program.** If the total amount of the proposed general fund expenses in the preliminary budget of any district or county high school shall exceed the foundation program thereof, the budget board shall, in the manner provided by section 75-4518, reduce such proposed general fund expenses to a total equal to said foundation program unless the board of trustees of said district or county high school shall establish to the satisfaction of the budget board that special circumstances exist which justify such additional expenses, and in such event a statement of the reasons for the allowance of such additional expenses shall be attached to said budget and signed by the chairman of the budget board, but the allowance of such excess expense over the foundation program shall not in any manner increase the amounts of state equalization aid to be apportioned hereunder; and provided that, except in the case of the existence of the emergencies specified in section 75-4521, the entire amount of such additional expense over the foundation program to be included in any high school budget including any reserve fund, not to exceed thirty-five per cent (35%) of the amount appropriated in the final and approved budget for the then current school year, for the purpose of maintaining the elementary and high school of the district from July 1 to November 30 of the next succeeding year, plus the foun-

HeinOnline -- 1969 vol. II 1206 1969

dation program shall not be greater than the maximum amounts in accordance with the following schedules, provided that nothing herein contained shall be construed as preventing the voting of an additional levy in accordance with the general school laws pertaining to the voting of additional levies.

High schools.

High Schools

(1) For each high school having an ANB of twenty-four (24) or fewer pupils, the maximum shall be *thirty-five thousand four hundred forty dollars ($35,440).*

(2) For a secondary school having an ANB of more than twenty-four (24) pupils, the maximum *fourteen hundred seventy-six dollars and thirty-five cents ($1,476.35)* shall be decreased at the rate of *nine dollars and seventy-five cents ($9.75)* for each additional pupil until the ANB shall have reached a total of forty (40) such pupils. For a school having an ANB of more than forty (40) pupils, the maximum of *thirteen hundred twenty dollars and thirty-five cents ($1,320.35)* shall be decreased at the rate of *six dollars and sixty cents ($6.60)* for each additional pupil until the ANB shall have reached one hundred (100) pupils. For a school having an ANB of more than one hundred (100) pupils, a maximum of *nine hundred twenty-three dollars and seventy-five cents ($923.75)* shall be decreased at the rate of *two dollars and fifteen cents ($2.15)* for each additional pupil until the ANB shall have reached two hundred (200) pupils. For a school having an ANB of more than two hundred (200) pupils, the maximum of *seven hundred eight dollars and seventy-five cents ($708.75)* shall be decreased by *forty-nine cents ($.49)* for each additional pupil until the ANB shall have reached three hundred (300) pupils. For a school having an ANB of more than three hundred (300) pupils, the maximum of *six hundred sixty dollars ($660)* shall be decreased at the rate of *twelve and one-half cents ($.125)* until the ANB shall have reached *six hundred (600) pupils. For a school having an ANB over six hundred (600) pupils, the maximum shall not exceed six hundred twenty-two dollars and fifty cents ($622.50)* per pupil.

The maximum per pupil for all pupils (ANB) and for all schools shall be computed on the basis of the amount allowed herein on account of the last eligible pupil, ANB.

HeinOnline -- 1969 vol. II 1207 1969

In computing the amount for the foundation program and the maximum program only junior high schools which have been approved and accredited by the state board of education shall be considered a part of the secondary enrollment."

Amending clause.

Section 3. Section 75-3706, R.C.M., 1947, is amended to read as follows:

Common school levy.

"75-3706. **(1202) Common school levy.** In addition to the provisions for the support of the common schools, hereinbefore provided, it shall be the duty of the county commissioners of each county in the state to levy an annual basic tax of *twenty-five (25)* mills on the dollar of the taxable value of all taxable property within the county, which levy shall be made at the time and in the manner provided by law for the levying of taxes for county purposes, which tax shall be collected by the county treasurer at the same time and in the same manner as state and county taxes are collected; provided that if a basic levy of less than *twenty-five (25)* mills should be sufficient to meet the total of the approved budgets of all school districts within the county, then such lesser basic levy shall be made, but no school district within a county levying less than the basic *twenty-five (25)* mills shall receive any apportionment of state equalization aid; it shall be the duty of the board of county commissioners to levy, if necessary, an additional tax in such number of mills on the taxable value of all taxable property within the county as shall be required to provide the foundation program for all school districts within the county. The county superintendent shall apportion the proceeds of such additional tax levy to each school district within the county after apportionment of the basic county common school levy as provided in section 75-3618 and the state equalization aid as provided in section 75-3619.

For the further support of the common schools, there shall also be set apart by the county treasurer all moneys paid into the county treasury arising from all fines for violations of law, unless otherwise specified by law. Such moneys shall be forthwith paid into the county treasury by the officer receiving the same, and be added to the yearly school fund raised by taxation."

Amending clause.

Section 4. Section 75-3618, R.C.M., 1947, is amended to read as follows:

HeinOnline -- 1969 vol. II 1208 1969

"75-3618. **Distribution of money available to districts—formula for apportionment of county funds.** After the deduction of transportation reimbursements provided by law, the proceeds of the basic county *twenty-five (25)* mill common school levy as provided for in section 75-3706 and the proceeds of the basic special tax for high schools, as provided for in section 75-4516.1 shall each be separately distributed by the county superintendent to the respective districts in the county, and the county high school if there be one, in proportion to their needs under the foundation financial program. In all cases in which the proceeds of such basic county levy when added to interest and income moneys available to the respective districts, and other funds which must be used in support of the foundation financial program are insufficient to finance the foundation financial program, the proceeds of the basic county common school levy and the proceeds of the basic county special tax for high schools shall each be separately distributed in accordance with the following procedure; provided, however, that cash balances to the credit of the district at the end of the school year, after authorized reserves have been subtracted as well as outstanding warrants, shall be used by the district to reduce the levies on the district for the general fund after county and state equalization aid have been received:

Distribution of money available to districts—formula for apportionment of county funds.

Use of cash balances at end of year.

1. Determine the ratio that the total funds available to all districts in the county in support of the foundation program (including proceeds of the basic county levy) bears to the total costs of the foundation program for all such districts.

2. Determine the ratio that the total funds available to each district in support of the foundation program (excluding all proceeds of the basic county levy) bears to the cost of the foundation program of each such district.

3. Districts in which the ratio as determined in (2) above exceeds the ratio in (1) above shall not be entitled to distribution of such county funds but shall be excluded from further consideration under this section.

4. After elimination of districts referred to in (3) above, determine the ratio that the total funds available to all remaining districts in the county in support of the foundation program (including proceeds of the basic county levy) bears to the total cost of the foundation

HeinOnline -- 1969 vol. II 1209 1969

program of all such remaining districts. Each remaining district shall then be entitled to distribution of funds from the basic county levy, which, when added to all other funds available to such district in support of the foundation program shall be sufficient to finance such proportionate part of its foundation program.

5. No district school shall be deprived of its needful share of either county levy by reason of it being nonaccredited.

6. No territory situated within the county shall be excluded from the distribution of the school funds of the county solely because such territory lies within the boundaries of a joint district."

Amending clause.

Section 5. Section 75-4516.1, R.C.M., 1947, is amended to read as follows:

Levy of taxes—basic high school levy.

"75-4516.1. **Levy of Taxes.** (1) **Basic high school levy.** It shall be the duty of the county commissioners of each county in the state to levy an annual basic special tax for high schools of *fifteen (15)* mills on the dollar of the taxable value of all taxable property within the county, which levy shall be made at the time and in the manner provided by law for the levying of taxes for county purposes and which tax shall be collected by the county treasurer at the same time and in the same manner as state and county taxes are collected; provided that if a basic levy of less than *fifteen (15)* mills should be sufficient to meet the total of the approved budgets of all school districts and county high schools within the county, then such lesser basic levy shall be made.

No county levying less than the adjusted basic high school levy shall receive any apportionment of state equalization aid.

Additional high school levy.

(2) **Additional high school levy.** The county commissioners shall, if necessary, levy an additional tax in such number of mills on the taxable value of all taxable property within the county as shall be required to provide the foundation program for all school districts and county high schools within the county. The county superintendent shall apportion the proceeds of such additional tax levy to each school district and county high school within the county after apportionment of the basic

HeinOnline -- 1969 vol. II 1210 1969

special tax for high schools as provided in section 75-3618 and the state equalization aid as provided in section 75-3619.

(3) **Permissive high school levy.** If the revenues for the operation and mainteniance of any high school, including the amount apportionable from said basic special tax for high schools and the amount, if any, produced by said additional high school tax, shall be less than the foundation program of such high school and the approved additions thereto included in its budget, within the limitations hereinbefore specified, it shall be the further duty of the board of county commissioners to fix and levy a tax, in such number of mills as will produce the amount shown by the final budget to be raised by tax levy plus federal reimbursements in lieu of taxes, which tax shall, in the case of a county high school not located within a building district, be levied upon all property in the county, excepting the property of any district supporting a district high school, and shall, in the case of a county high school located within a high school building district, be levied upon all property in such building district and which tax shall, in the case of a district high school not located within a building district, be levied upon all property within the school district, and shall, in the case of a district high school located within a building district, be levied upon all property in such building district, provided, however, that such last mentioned additional tax shall not, in any event, be used to raise funds in excess of the maximum budgets as specified in section 75-4518.1 when considered with all other sources of revenues, unless approved by a vote of the taxpaying electors.''

Permissive high school levy.

Section 6. All acts and parts of acts in conflict herewith are hereby repealed.

Repealing clause.

Section 7. This act is effective immediately upon passage and approval.

Effective immediately.

Approved: March 19, 1969.

CHAPTER 4

An Act to Amend Sections 87-103, 87-104, 87-106 and 87-109, R.C.M., 1947, Which Sections Are a Part of the

HeinOnline -- 1969 vol. II 1211 1969

Unemployment Compensation Law, by Providing for New Bracketing in the Determination of High-Quarter Wages in the Benefit Schedule and Increasing Minimum Qualifying Wages; Increasing the Maximum Weekly Benefit Amount; Reducing Duration by the Number of Weeks Equal to the Number of Weeks of Disqualification; Increasing the Maximum Employer Tax Rate From 2.7 Per Centum to 3.1 Per Centum by Adding New Individual Tax Rates of 2.9 Per Centum and 3.1 Per Centum; Increasing the Average Annual Employer Tax Rate on Taxable Payrolls from 1.5 Per Centum to 1.6 Per Centum; Requiring Notice to Employer of Benefit Claim Before Charging His Account; Deleting Language No Longer Applicable; and Providing Effective Dates.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 87-103, R.C.M. 1947, is amended to read as follows:

Benefits—payment of benefits.

"87-103. **Benefits.** (a) **Payment of benefits.** *B*enefits *are* payable from the fund to any individual who is or becomes unemployed and eligible for benefits as is herein prescribed; provided, however, that wages earned for services performed as an employee representative as defined in the Railroad Unemployment Insurance Act (52 Stat. 1094), or for services performed for an employer, as defined in said act, shall not be included for the purposes of determining eligibility or weekly benefit amount under this act. All benefits shall be paid through public employment offices in the state of Montana, or other agencies designated by the commission, in accordance with such rules and regulations as the commission may prescribe.

Weekly benefit amount.

(b) **Weekly benefit amount.** Except as provided in subsection (c), an insured worker's weekly benefit amount shall be the amount in column B of the benefit schedule of this subsection on the line on which in column A there appears his total wages paid for insured work in that quarter of his base period in which his wages were highest: (designated in the benefit schedule as 'High-Quarter Wages').

Benefit Schedule

Weekly benefit amount figures from weighted schedule of high-quarter wages and qualifying wages computed as

HeinOnline -- 1969 vol. II 1212 1969

one and one-half times high-quarter wages and maximum potential benefits in benefit year.

High-Quarter Wages (Column A)	Weekly Benefit Amount (Column B)	Minimum Qualifying Wages (Column C)
$ 220.00- 309.99	$13.00	$ 420.00
310.00- 339.99	14.00	465.00
340.00- 369.99	15.00	510.00
370.00- 399.99	16.00	555.00
400.00- 429.99	17.00	600.00
430.00- 459.99	18.00	645.00
460.00- 489.99	19.00	690.00
490.00- 519.99	20.00	735.00
520.00- 549.99	21.00	780.00
550.00- 579.99	22.00	825.00
580.00- 609.99	23.00	870.00
610.00- 639.99	24.00	915.00
640.00- 669.99	25.00	960.00
670.00- 699.99	26.00	1,005.00
700.00- 729.99	27.00	1,050.00
730.00- 759.99	28.00	1,095.00
760.00- 789.99	29.00	1,140.00
790.00- 819.99	30.00	1,185.00
820.00- 849.99	31.00	1,230.00
850.00- 879.99	32.00	1,275.00
880.00- 909.99	33.00	1,320.00
910.00- 939.99	34.00	1,365.00
940.00- 969.99	35.00	1,410.00
970.00- 999.99	36.00	1,455.00
1,000.00-1,029.99	37.00	1,500.00
1,030.00-1,059.99	38.00	1,545.00
1,060.00-1,089.99	39.00	1,590.00
1,090.00-1,119.99	40.00	1,635.00
1,120.00-1,149.99	41.00	1,680.00
1,150.00-or more	42.00	1,725.00

Maximum total Benefits at 13 weeks (Column D)	Maximum total Benefits at 20 weeks (Column E)	Maximum total Benefits at 26 weeks (Column F)
$169.00	$260.00	$ 338.00
182.00	280.00	364.00

HeinOnline -- 1969 vol. II 1213 1969

195.00	300.00	390.00
208.00	320.00	416.00
221.00	340.00	442.00
234.00	360.00	468.00
247.00	380.00	494.00
260.00	400.00	520.00
273.00	420.00	546.00
286.00	440.00	572.00
299.00	460.00	598.00
312.00	480.00	624.00
325.00	500.00	650.00
338.00	520.00	676.00
351.00	540.00	702.00
364.00	560.00	728.00
377.00	580.00	754.00
390.00	600.00	780.00
403.00	620.00	806.00
416.00	640.00	832.00
429.00	660.00	858.00
442.00	680.00	884.00
455.00	*700.00*	*910.00*
489.00	*720.00*	*936.00*
481.00	*740.00*	*962.00*
494.00	*760.00*	*988.00*
507.00	*780.00*	*1,014.00*
520.00	*800.00*	*1,040.00*
533.00	*820.00*	*1,066.00*
546.00	*840.00*	*1,092.00*

Such benefit shall not be more than *forty-two* dollars *($42)* per week nor less than *thirteen dollars ($13)* per week.

Qualifying wages.

(c) **Qualifying wages.** To qualify as an insured worker an individual must have been paid wages for insured work in his base period totaling not less than the amount in column C of the benefit schedule in subsection (b) on the line on which in column B there appears his weekly benefit amount; provided that an individual who has high-quarter wages of *eleven hundred and fifty dollars ($1,150)* or more must have been paid wages of one *and one-half (1 1/2) times his high-quarter wages during his base period including the high-quarter.*

Wage record.

(d) **Wage record.** The commission shall maintain a record of the wages paid to an individual in accordance

HeinOnline -- 1969 vol. II 1214 1969

with wages earned by him for employment by employers during each quarter.

(e) **Benefits.** All accrued benefits due and payable at the time of death to any deceased claimant shall be paid to the surviving spouse, or if there be no surviving spouse, then to the surviving children, or if there be no surviving children, then to the next of kin, without the necessity of any recipient obtaining letters testamentary or of administration." Benefits.

Section 2. Section 87-104, R.C.M. 1947, is amended to read as follows: Amending clause.

"87-104. **Duration of benefits.** The maximum total amount of benefits payable to any eligible individual during any benefit year shall be: (a) *(1)* Thirteen (13) times his weekly benefit amount if he is qualified as an insured worker as defined in section 87-103 (c), and does not qualify under subsection *(2)* or *(3)* below. Duration of benefits.

(2) Twenty (20) times his weekly benefit amount if in addition to meeting the requirements of section 87-103 (c), he has been paid wages of $100.00 or more for insured work in each of two (2) quarters in his base period other than the quarter in which his wages were highest.

(3) Twenty-six (26) times his weekly benefit amount if in addition to meeting the requirement of section 87-103 (c), he has been paid wages of $100.00 or more for insured work in each of three (3) quarters in his base period other than the quarter in which his wages were highest.

(b) An individual disqualified by and pursuant to section 87-106, subsections (a), (b) and (c), shall have his maximum weekly duration reduced by the number of weeks equal to the number of weeks of disqualification."

Section 3. Section 87-106, R.C.M. 1947, is amended to read as follows: Amending clause.

"87-106. **Disqualification for benefits.** An individual shall be disqualified for benefits— Disqualification for benefits.

(a) If he has left work without good cause attributable to the employment for a period of not less than two (2)*nor* more than five (5) weeks (in addition to and im- Left work without good cause.

HeinOnline -- 1969 vol. II 1215 1969

mediately following the waiting period), as determined by the commission according to the circumstances in each case. No benefit payments or amounts paid any individual after having left work without good cause attributable to the employment shall ever be charged under section 87-109 against any employer (whose employment the individual left) on account of that particular employment.

Discharge.

(b) If he has been discharged:

(1) For misconduct connected with his work, or affecting his employment, for a period of not less than two (2) nor more than nine (9) weeks (in addition to and immediately following the waiting period), as determined by the commission in each case according to the seriousness of the misconduct;

(2) For gross misconduct connected with his work or committed on the employer's premises, as determined by the commission, for a period of twelve (12) months.

No benefit payments or amounts paid any individual after having been discharged for misconduct shall ever be charged under section 87-109 against any employer (from whose employment the individual was discharged for misconduct as above provided) on account of that particular employment.

Failed to apply for work.

(c) If he failed, without good cause, either to apply for available and suitable work when so directed by the employment office or the commission or to accept suitable work offered to him which he is physically able and mentally qualified to perform, or to return to his customary self-employment (if any) when so directed by the commission. Such disqualification shall continue for the week in which such failure occurred and for not less than two (2) nor more than five (5) weeks in addition to the waiting week which immediately follow such week as determined by the commission according to the circumstances in each case.

(1) In determining whether or not any work is suitable for an individual, the commission shall consider the degree of risk involved to his health, safety, and morals, his physical fitness and prior training, his experience and previous earnings, his length of unemployment and

HeinOnline -- 1969 vol. II 1216 1969

prospects for securing local work in his customary occupation, and the distance of the available work from his residence.

(2) Notwithstanding any other provisions of this act, no work shall be deemed suitable and benefits shall not be denied under this act to any otherwise eligible individual for refusing to accept new work under any of the following conditions:

(A) If position offered is vacant due directly to a strike, lockout, or other labor dispute;

(B) If the wages, hours, or other conditions of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality;

(C) If as a condition of being employed the individual would be required to join a company union or to resign from or refrain from joining any bona fide labor organization.

(d) For any week with respect to which the commission finds that his total unemployment is due to a stoppage of work which exists because of a labor dispute at the factory, establishment, or other premises at which he is or was last employed, provided that this subsection shall not apply if it is shown to the satisfaction of the commission that— **Labor dispute.**

(1) He is not participating in or financing or directly interested in the labor dispute which caused the stoppage of work; and

(2) He does not belong to a grade or class of workers of which immediately before the commencement of the stoppage, there were members employed at the premises at which the stoppage occurs, any of whom are participating in or financing or directly interested in the dispute;

Provided, that if in any case separate branches of work which are commonly conducted as separate businesses in separate premises are conducted in separate departments of the same premises, each such department shall, for the purpose of this subsection, be deemed to be a separate factory, establishment, or other premises; provided, further, that if the commission, upon investigation,

HeinOnline -- 1969 vol. II 1217 1969

shall find that such labor dispute is caused by the failure or refusal of any employer to conform to the provisions of any law of the state wherein the labor dispute occurs or of the United States pertaining to collective bargaining, hours, wages or other conditions of work, such labor dispute shall not render the workers ineligible for benefits.

Termination allowance—workmen's compensation benefits—unemployment compensation benefits.

(e) For any week with respect to which he is receiving or has received payment in the form of—

(1) Wages in lieu of notice or separation or termination allowance;

(2) Compensation for disability under the Workmen's Compensation Law or the Occupational Disease Law of this or any other state or under a similar law of the United States;

(3) Benefits under the Railroad Unemployment Insurance Act or any state unemployment compensation act or similar laws of any state or of the United States. This disqualification does not apply to any week with respect to which an individual is receiving or has received benefits under an unemployment compensation law of another state or of the United States, if such benefits are paid pursuant to section 87-129.

Compensation as set forth in subsection (2) above, which is received as a lump-sum payment for a permanent disability shall not be computed to be spread over a period of weeks in advance so as to bar the recipient from receiving benefits under this act for any week except the one in which the lump-sum payment is made, providing recipient has earned sufficient new wage credits following *the date of injury*.

Receipt of any wages, compensation or benefits as set forth in subsection (1), (2), or (3) above, after payment of unemployment benefits, and with respect to the same week for which unemployment benefits were received, will thereupon require such individual to repay such unemployment benefits and the commission may collect such unemployment benefits in the same manner as provided for collection of benefits under section 87-145 (d).

Students.

(f) During the school year (within the autumn, winter and spring seasons of the year) or the vacation periods

HeinOnline -- 1969 vol. II 1218 1969

within such school year or during any prescribed school term if claimant is a student regularly attending an established educational institution.

(g) For any week wherein claimant leaves her most recent work to be married. Such disqualification shall cancel all existing wage credits and shall continue until such time as subsequently to such week additional wage credits shall have been earned so as to be eligible for benefits under section 87-105. Marriage.

(h) Where retired and entitled to receive retirement compensation in excess of one hundred dollars ($100.00) per calendar month paid in whole or in part from funds furnished by an employing unit, such disqualification to be applied as follows: All wages earned by such individual in the employment from which he has been retired shall not be considered or included in determining his wage credits or weekly benefit amount under section 87-103 and 87-105. No benefit payments or amounts paid any retired individual shall ever be charged under section 87-109 against any employing unit from whose employment the individual is retired and entitled to receive retirement compensation, on account of that particular employment, unless and until the commission shall determine (upon hearing, if requested by employer, and after at least ten (10) days' written notice of such hearing to said employer) that the individual was not retired by the employer acting in good faith. This disqualification does not extend to the receipt of benefits under the Federal Social Security Act, as amended. Retirement.

(i) For any week wherein claimant leaves her most recent employment during pregnancy, and due to such pregnancy, and such disqualifications shall continue through the period of pregnancy unless claimant presents evidence of her physical ability to work at such employment. At any time after the seventh month of pregnancy a claimant, to establish eligibility, must present evidence of physical ability to work at such employment. Further, at any time during the first two (2) months following childbirth, a claimant, to establish eligibility, must present evidence of her physical ability to work at such employment. In any of the cases set forth hereinbefore, such evidence of eligibility must be in the form of a certificate of a duly licensed physician that such claimant is Pregnancy.

HeinOnline -- 1969 vol. II 1219 1969

physically able to work at her most recent employment, and such evidence must be presented as often as requested by the commission. No benefit payments or amounts paid any individual after having left work because of pregnancy or childbirth shall ever be charged under section 87-109 against the employer (whose employment the individual left because of pregnancy or because of childbirth) on account of that particular employment.

Change of residence.

(j) For any week wherein claimant leaves her most recent work to change her place of residence in order to remain with her husband or relative. Such disqualification shall cancel all existing wage credits and shall continue until such time as subsequently to such week additional wage credits shall have been earned so as to be eligible for benefits under section 87-105."

Amending clause.

Section 4. Section 87-109, R.C.M. 1947, is amended to read as follows:

Contributions—payment.

"87-109. **Contributions. (a) Payment.** (1) Contributions shall accrue and become payable by each employer for each calendar year in which he is subject to this act, with respect to wages as defined in section 87-149 (c), paid for employment (as defined in this act) occurring during such calendar year. Such contributions shall become due and be paid by each employer to the commission for the fund in accordance with such regulations as the commission may prescribe and shall not be deducted, in whole or in part, from the wages of individuals in his employ.

(2) In the payment of any contributions, a fractional part of a cent shall be disregarded unless it amounts to one-half (½) cent or more, in which case it shall be increased to one (1) cent.

Rate of contribution.

(b) **Rate of contribution.** (1) Each employer shall pay contributions *at the rate of three and one-tenth (3.1 per centum* of wages, as defined in section 87-149 (c) paid by him with respect to *such* employment, except as provided in subsection (c) of this section.

Experience rating.

(c) **Experience rating.** The commission shall for each calendar year, classify employers in accordance with their actual contribution and unemployment experience and shall determine for each employer the rate of con-

HeinOnline -- 1969 vol. II 1220 1969

tribution which shall apply to him throughout the calendar year in order to reflect said experience and classification.

The commission shall apply such form of classification or experience rating system which is best calculated to rate individually and most equitably the employment for each employer and to encourage the stabilization of employment.

In making such classification, the commission shall take account, each to an equal extent, of the following factors relating to the unemployment hazard shown by each employer on the basis of (1) average annual net percentage declines in taxable payrolls for the last three (3) years prior to computation date; (2) number of years the employer has paid contributions; and (3) chargebacks to the individual employer account upon the last employer basis. The computation date is hereby fixed as of the close of business on June 30th of the preceding calendar year.

The rates for the *second* calendar quarter of calendar year *1969* and thereafter, except as hereinafter provided, shall be so fixed that they would, if applied to all employers and their total taxable annual payrolls for the preceding calendar year, have yielded total paid contributions equaling approximately *one and six-tenths (1.6)* per centum of the total of all such payrolls.

The commission shall determine the contribution rate applicable to each employer for any calendar year subject to the following limitations: **Rate limitation.**

(1) Each employer's rate shall be *three and one-tenth (3.1)* per centum unless and until there have been five (5) years prior to the computation *date* throughout which the employer has paid contributions at the *maximum tax rate set by law for each of such years.* **Employer's rate.**

(2) The classified contribution rates for the calendar year *1969*, and thereafter, except as hereinafter provided shall be: five-tenths (.5) of one per centum, seven-tenths (.7) of one per centum, nine-tenths (.9) of one per centum, one and one-tenth (1.1) per centum, one and three-tenths (1.3) per centum, one and five-tenths (1.5) per centum, one and seven-tenths (1.7) per centum, one **1969 vote.**

HeinOnline -- 1969 vol. II 1221 1969

and nine-tenths (1.9) per centum, two and one-tenth (2.1) per centum, two and three-tenths (2.3) per centum, two and five-tenths (2.5) per centum, two and seven-tenths (2.7) per centum, *two and nine-tenths (2.9) per centum, and three and one-tenth (3.1) per centum.*

Classified contribution rate.

(3) No employer shall be assigned a classified contribution rate higher than the second classified rate above the rate which was assigned to him for the last preceding calendar year except for the year 1961 and further as hereinafter provided.

Employer's rate minimum.

(4) No employer's rate shall be fixed below *three and one-tenth (3.1)* per centum whose benefit payments charged as most recent employer have, in the last three (3) years preceding the computation date, exceeded the amount of his contributions for those years, provided that any employer may, for the purpose of avoiding the provisions of this subsection, have the option of making a voluntary contribution to the unemployment compensation fund to cancel the amount by which the benefit payments charged to him under section 87-109 (c) during the last three (3) completed fiscal years exceed his contributions for the same three (3) years. Such voluntary contribution shall be applied first to cancel the amount by which benefits exceed contributions in the earliest of the three (3) years preceding the computation date, any remaining to cancel the excess in the second earliest year preceding the computation date, and any further remaining to cancel the excess in the most recent year preceding the computation date. Whenever the benefit payments charged to an eligible employer in the last three (3) fiscal years exceed his contributions for the same period, the commission shall notify him of the amount of such excess and the rate which would be applicable to him for the ensuing calendar year, if he exercises the option. Such employer must exercise the option of making the voluntary contribution allowed by this section within thirty (30) days after receipt of such notice; otherwise his rate for the ensuing calendar year shall be fixed at *three and one-tenth (3.1)* per centum.

Rates—effective period.

(5) Rates as fixed by the commission shall stand and be in effect unless and until the cash reserves in the unemployment compensation trust fund at any time in the future fall below, and remain below, eighteen

HeinOnline -- 1969 vol. II 1222 1969

million dollars ($18,000,000.00) continuously for a period of one (1) year, then employer rates effective at the beginning of the next succeeding calendar quarter shall be so fixed that they would, if applied to all employers and their total taxable annual payrolls for the preceding calendar year, have yielded total paid contributions equaling approximately two (2) per centum of the total of all such payrolls, and shall continue at the two (2) per centum average rate until cash reserves in the unemployment compensation trust fund exceed twenty-six million dollars ($26,000,000.00) at which time all employer rates shall again be so fixed to bring an average return of *one and six-tenths (1.6)* per centum as in this section hereinabove provided; if reserves remain below eighteen million dollars ($18,000,000.00) continuously for a period of two (2) years, then the contribution rate of all employers subject to this act shall return to a uniform rate of *three and one-tenth (3.1)* per centum effective at the beginning of the next succeeding calendar quarter, and shall continue at the *three and one-tenth (3.1)* per centum rate until cash reserves in the unemployment compensation trust fund exceed twenty-six million dollars ($26,000,000.00) at which time all employer rates shall again be so fixed to bring an average return of *one and six-tenths (1.6)* per centum as in this section hereinabove provided.

Regulations and procedures.

(6) The commission shall by regulation adopt such procedures as may be necessary for the substitution, merging or acquisition of an employer account by an employing unit, and the transfer of such employer account, rights, contributions, benefit experience and ratings to the successor employing unit or units.

Notification of employers.

(7) The commission shall by regulation provide for the proper notification of employers of the classification and rate of contribution applicable to their accounts. Such notification shall be final for all purposes unless and until such employer files a written request with the commission for a redetermination or hearing thereon within thirty (30) days after receipt of such notice. The provisions of section 87-107 applicable to appeals under claims procedure shall apply with like purpose and effect, and be applicable to hearings and request for redeterminations of classifications and rates of contribution filed by employers hereunder.

HeinOnline -- 1969 vol. II 1223 1969

"Annual taxable payroll."

(8) 'Annual taxable payroll' means the total of the four (4) quarters of taxable payrolls of an employer preceding the computation date as fixed herein.

Hearing on claim.

(9) No employer's account shall be charged with benefits paid to any claimant in determining the contribution rate of such employer unless the employer has had notice of the claim for benefits and has been given opportunity for hearing as an interested party in the manner provided in sections 87-107 and 87-108. Written notice of any hearing shall be mailed to employer not less than ten (10) days prior to the date set.

(d) **Wages in excess of three thousand dollars ($3,000.00).** The provisions of this act requiring the payment of contributions by employers subject to this act shall apply only to wages paid up to and including three thousand dollars ($3,000.00) by an employer to an employee with respect to employment during any calendar year."

Saving clause.

Section 5. If any clause, sentence, section, paragraph or part of this act shall for any reason be adjudged by any court of competent jurisdiction to be invalid or inoperative, such judgment shall not affect, impair, or invalidate the remainder of this act but shall be confined in its operation to the clause, sentence, section, paragraph or part directly adjudged to be invalid or inoperative.

Repealing clause.

Section 6. All acts or parts of acts in conflict herewith are hereby repealed.

Effective dates.

Section 7. Sections 1, 2 and 3 of this act shall be in full force and effect on and after April 6, 1969, and sections 1, 2 and 3 shall apply to all benefit years beginning on and after April 6, 1969, and the insured status of all claimants who have a benefit year current on or after April 6, 1969, shall be redetermined and benefits shall be paid in accordance with this provision, provided that no insured worker shall have his benefits reduced or denied by redetermination resulting from the application of this provision; section 4 of this act shall be in full force and effect on and after April 1, 1969.

Approved: March 19, 1969.

HeinOnline -- 1969 vol. II 1224 1969

CHAPTER 5

An Act to Increase the Electrical Energy Producers' License Tax Providing an Effective Date; Amending Sections 84-1601 and 84-1602, R.C.M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 84-1601, R.C.M. 1947, is amended to read as follows: Amending clause.

"84-1601. **Electrical energy producers' license tax.** That in addition to the license tax now provided by law, each and every individual, firm, partnership, common-law trust, corporation, association or other organization now engaged in the generation, manufacture or production of electricity, and electrical energy in the state of Montana, either through water power or by any other means, for barter, sale or exchange and hereinafter referred to as the 'producer,' shall on or before the fifteenth day of each calendar month beginning with the fifteenth day of May, *1969*, render a statement to the state board of equalization of the state of Montana, showing the gross amount of money received on account of sales of electricity and electrical energy during the preceding calendar month without any deduction, and shall pay a license tax thereon in the sum of one and one-quarter per cent (1¼%) of such gross amount as shown on such statement in the manner and within the time hereinafter provided*; provided however, that for the two taxable years commencing on or after April 1, 1969, the tax shall be computed at the rate of one and four hundred thirty-eight thousandths per cent (1.438%).*" Electrical energy producers' license tax.

Section 2. Section 84-1602, R.C.M. 1947, is amended to read as follows: Amending clause.

"84-1602. **Payment of tax—not to be set out on customers' bills.** Said license tax shall be remitted with the statement and paid on or before the fifteenth (15*th*) day of each month. No bill, statement or account rendered or given any customer by any organization affected by the provisions of this act shall set out or contain, as a separate item, any amount on account or by reason of, the license tax imposed by this act." Payment of tax—not to be set out in customers' bills.

HeinOnline -- 1969 vol. II 1225 1969

Effective immediately.

Section 3. This act is effective upon its passage and approval.

Approved: March 19, 1969.

CHAPTER 6

An Act to Increase the Fee Payable to the Board of Railroad Commissioners by Motor Carriers Holding a Certificate of Public Convenience; Amending Section 8-127, R.C.M. 1947; Repealing Section 8-128, R.C.M. 1947, Which Section Concerns Disposition of Fees by the Railroad Commission and Which Has Been Superseded by Section 84-1902, R.C.M. 1947; Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 8-127, R.C.M. 1947, is amended to read as follows:

Additional fees covering motor carriers.

"8-127. **Additional fees covering motor carriers.** In addition to all other licenses, fees and taxes imposed upon motor vehicles in this state and in consideration of the use of the highways of this state, every motor carrier holding a certificate of public convenience and necessity or permit issued by the board of railroad commissioners, shall between the first and fifteenth days of January, April, July and October of each year, file with the board of railroad commissioners a statement showing the gross operating revenue of such carrier for the preceding three (3) months of operation, or portion thereof, and shall pay to the board a fee of one-half (½) of one (1) per cent of the amount of such gross operating revenue; *provided, however, that for the two taxable years commencing on or after April 1, 1969, the fee shall be five hundred seventy-five thousandths (.575) of one per cent of the amount of such gross operating revenue;* and in the event that such carrier operates in interstate commerce, the gross operating revenue of such carrier within this state shall be deemed to be all the revenue received from business beginning and ending within this state, and a proportion based upon the proportion of the mileage within this state to the entire mileage over which the business is done of revenue on all business passing through, into

HeinOnline -- 1969 vol. II 1226 1969

or out of this state; provided, however, that the minimum fee which shall be paid by each class A and class B carrier for each vehicle registered and/or operated under the provisions of the Motor Carrier Act shall be thirty dollars ($30.00) and the minimum annual fee which shall be paid by each class C carrier for each vehicle registered and/or operated under the Motor Carrier Act shall be fifteen dollars ($15.00); provided, however, that the minimum annual fee provided by this section shall not apply to either new or used vehicles operated under their own power where such vehicle is being delivered to a dealer and will only be transported once."

Section 2. Section 8-128, R.C.M. 1947, is repealed. **Repealing clause.**

Section 3. This act is effective upon its passage and approval. **Effective immediately.**

Approved: March 19, 1969.

CHAPTER 7

An Act to Increase the Telephone Company License Tax; Amending Sections 84-2601 and 84-2602, R.C.M. 1947; Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 84-2601, R.C.M. 1947, is amended to read as follows: **Amending clause.**

"84-2601. **Annual tax levied on gross income of telephone business.** That on and after the first day of April, 1957, there is hereby levied and shall be collected an annual tax of one and one-half per cent (1½%) of the gross income, in excess of two hundred fifty dollars ($250) quarterly, derived from any telephone business within this state including the transmission of telephone messages in this state, over telephone lines in this state owned by any person, association or corporation; *providing, however, that for the two taxable years commencing on or after April 1, 1969; the tax shall be computed at the rate of one and seven hundred twenty-five thousandths per cent (1.725%) of the gross income, in excess of two hundred fifty dollars ($250) quarterly, derived from any telephone business within this state including the transmission of telephone* **Annual tax levied on gross income of telephone business.**

HeinOnline -- 1969 vol. II 1227 1969

messages in this state, over telephone lines in this state owned by any person, association or corporation; provided, however, that no bill, statement or account rendered or given any customer shall set out or contain, as a separate item, any amount on account or by reason of the license tax imposed by this act. Such annual license tax shall be paid in quarterly installments for the quarters ending respectively March 31, June 30, September 30, and December 31, in each year."

Amending clause.

Section 2. Section 84-2602, R.C.M. 1947, is amended to read as follows:

Statement and payment on gross income—certain business excluded.

"84-2602. **Statement and payment on gross income—certain business excluded.** Each and every person, association or corporation liable to tax under this act engaged in carrying on such telephone business in this state shall, within sixty (60) days after the end of each quarter, beginning with the quarter ending *June 30, 1969,* make out in duplicate and file with the state board of equalization, under oath, a statement in such form as the state board of equalization may require and prescribe, showing the total gross income of such person, association or corporation derived from the telephone business within this state including the transmission of telephone messages originating and terminating within this state, but excluding therefrom the gross income derived from the transmission of telephone messages passing through this state but both originating and terminating outside of this state and from those originating outside of, but terminating within this state and from those originating within but terminating outside of this state during the preceding quarter, and containing such other information as the state board of equalization may require; and shall accompany such statement with the payment to the state board of equalization of a license tax in the amount equal to one and one-half per cent (1½%); *provided, however, that for the two (2) taxable years commencing on or after April 1, 1969, the rate shall be one and seven hundred twenty-five thousandths per cent (1.725%)* of such gross income."

Effective immediately.

Section 3. This act is effective upon its passage and approval.

Approved: March 19, 1969.

HeinOnline -- 1969 vol. II 1228 1969

CHAPTER 8

An Act to Increase the Natural Gas Distributors' License Tax; Providing an Effective Date; Amending Section 84-2102, R.C.M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 84-2102, R.C.M. 1947, is amended to read as follows: Amending clause.

"84.2102. **Natural gas distributors' license tax—amount—standard for measurement of gas distributed—persons not contemplated by act.** Every person engaged in or carrying on the business of distributing to consumers within this state, natural gas, produced, or not produced within this state, or engaged in or carrying on the business of owning, controlling, managing, leasing or operating within this state, any system or plant for the distribution of natural gas, produced, or not produced within this state, to consumers within this state for the purpose of use outside this state, or engaged in or carrying on the business of owning, controlling, managing, leasing or operating within this state, any system or plant for the distribution of natural gas, produced, or not produced within this state, to consumers within this state must, for the year beginning July 1, 1957, and each year thereafter when engaged in carrying on such business in this state, pay to the state treasurer for the exclusive use and benefit of the state of Montana, a license tax for engaging in and carrying on such business an amount equal to one-half (½) of one (1) cent for each one thousand (1000) cubic feet of such natural gas, produced within this state, or not produced within this state, and distributed by such person to consumers within this state, during such year, or conveyed through a pipeline to a point outside this state during such year, except in connection with the operating of natural gas wells from which the same was extracted or produced, or delivered by such person to any other person for sale*; provided, however, for the two taxable years commencing on or after January 1, 1969, the tax shall be computed at the rate of five hundred seventy-five thousands (.575) of one cent for each one thousand (1,000) cubic feet of such natural gas, produced within this state, or not produced within this state, and distrib-* Natural gas distributors' license tax—amount—standard for measurement of gas distributed—persons not contemplated by act.

HeinOnline -- 1969 vol. II 1229 1969

uted by such person to consumers within this state, during such year, or conveyed through a pipeline to a point outside this state during such year, except in connection with the operating of natural gas wells from which the same was extracted or produced, or delivered by such person to any other person for sale; provided that the standard or base pressure to be used in the measurement of such gas so distributed for determining the amount of license tax imposed hereunder, shall be ten (10) ounces above an atmospheric pressure of fourteen (14) and four-tenths (4/10) pounds per square inch, and at a temperature of sixty (60) degrees Fahrenheit, regardless of the atmospheric pressure and temperature at the point of measurement, and all measurements of gas shall be reduced, by computation, to these standards no matter what may have been the pressure and temperature at which gas was actually produced or measured; provided, however, that nothing in this act shall be construed as requiring laborers, employees, hired or employed, by any person to work on or about, or in connection with any natural gas well property or business, to pay such license taxes, nor shall any work required to be done in prospecting, or in developing, or opening up any natural gas property or plant, be deemed to be carrying on of natural gas business, or engaging in the business of working or operating of a natural gas well or plant; provided further, that if during any such work of developing any natural gas property, any marketable natural gas shall be extracted or produced and sold, then the same shall be deemed the carrying on of a natural gas business of distributing to consumers."

Effective immediately.

Section 2. This act is effective upon its passage and approval.

Approved: March 19, 1969.

CHAPTER 9

An Act to Increase the Metalliferous Mines License Tax; Amending Section 84-2004, R.C.M. 1947; Providing an Effective Date.

HeinOnline -- 1969 vol. II 1230 1969

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 84-2004, R.C.M. 1947, is amended to read as follows: Amending clause.

84-2004. **Amount of Tax.** The annual license tax to be paid by such person engaged in or carrying on the business of working or operating any mine or mining property in this state from which gold, silver, copper, lead or any other metal or metals, precious or semi-precious gems or stones are produced, shall be one dollar, together with an additional sum or amount computed on the gross value of product which may have been derived by such person from such business, work or operation within this state during the calendar year immediately preceding, at the following rates: one-half of one percent (½ of 1%) of the amount by which such gross value of product exceeds one hundred thousand dollars ($100,000) and does not exceed two hundred and fifty thousand dollars ($250,000); three-fourths of one percent (¾ of 1%) of the amount by which such gross value of product exceeds two hundred and fifty thousand dollars ($250,000) and does not exceed four hundred thousand dollars ($400,000); one percent (1%) of the amount by which the gross value of product exceeds four hundred thousand dollars ($400,000) and does not exceed five hundred thousand dollars ($500,000) and one and one-fourth percent (1¼%) of the amount by which the gross value of product exceeds five hundred thousand dollars ($500,000); *provided, however, that for all production obtained during the production years 1969 and 1970, the rate of tax shall be fifteen hundredths of one percent (0.15 of 1%) of the first one hundred thousand dollars ($100,000) of the gross value of the product; five hundred seventy-five thousandths of one percent (0.575 of 1%) of the amount by which such gross value of product exceeds one hundred thousand dollars ($100,000) and does not exceed two hundred and fifty thousand dollars ($250,000); eighty-six hundredths of one percent (0.86 of 1%) of the amount by which such gross value of product exceeds two hundred and fifty thousand dollars ($250,000) and does not exceed four hundred thousand dollars ($400,000); one and fifteen hundredths percent (1.15%) of the amount by which the gross value of product exceeds four hundred thousand* Amount of tax.

HeinOnline -- 1969 vol. II 1231 1969

dollars ($400,000) and does not exceed five hundred thousand dollars ($500,000) and one and four hundred thirty-eight thousandths percent (1.438%) of the amount by which the gross value of product exceeds five hundred thousand dollars ($500,000).''

Effective immediately.

Section 2. This act is effective upon its passage and approval.

Approved: March 19, 1969.

CHAPTER 10

An Act to Amend Section 84-4902, R.C.M. 1947, Relating to the Rate of Income Tax; and Providing for a Surcharge; and Changing and Adding Income Tax Brackets and Rates of Income Tax for All Taxable Years Commencing on or After December 31, 1968; and Further Amending Section 84-4903.5, R.C.M. 1947, to Provide for Monthly Payments to the State Board of Equalization of Amounts Withheld From Payments to Nonresidents Under Section 84-4903.2, R.C.M. 1947, If the Amount Withheld Is $50 or More in Each Quarterly Period of Any Year, Applying Changes When Payments Are Due to Payment Periods Beginning After June 30, 1969; and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 84-4902, R.C.M. 1947, is amended to read as follows:

Rate of income tax.

"84-4902. **Rate of income tax.** There shall be levied, collected and paid for each taxable year, commencing on or after December 31, *1968* upon the taxable income of every taxpayer subject to this tax, after making allowance for exemptions and deductions, as hereinafter provided, a tax at the following rates, to wit:

(a) On the first one thousand dollars ($1,000) of taxable income, or any part thereof, at the rate of two per centum (2%);

(b) On the next one thousand dollars ($1,000) of tax-

HeinOnline -- 1969 vol. II 1232 1969

able income, or any part thereof, at the rate of three per centum (3%);

(c) On the next two thousand dollars ($2,000) of taxable income, or any part thereof, at the rate of four per centum (4%);

(d) On the next two thousand dollars ($2,000) of taxable income, or any part thereof, at the rate of five per centum (5%);

(e) On the next two thousand dollars $2,000) of taxable income, or any part thereof, at the rate of six per centum (6%);

(f) On the next two thousand dollars ($2,000) of taxable income, or any part thereof, at the rate of seven per centum (7%);

(g) On the next *four thousand dollars ($4,000)* of taxable income, or any part thereof, at the rate of eight per centum (8%);

(h) *On the next six thousand dollars ($6,000) of taxable income, or any part thereof, at the rate of nine percent (9%);*

(i) On the next fifteen thousand dollars ($15,000) of taxable income, or any part thereof, at the rate of ten percent (10%);

(j) On any taxable income in excess of thirty-five thousand dollars ($35,000) of taxable income, or any part thereof, at the rate of eleven percent (11%)."

Section 2. After the amount of tax liability has been computed for the current taxable year, each person filing a Montana individual income tax return shall add, as a surtax, ten percent (10%) of the tax liability, and the amount so arrived at is the amount due the state of Montana. Surtax.

Section 3. Section 84-4903.5, R.C.M. 1947, is amended to read as follows: Amending clause.

"84-4903.5. *Monthly* **payment by withholding agent—exception.** Withholding agents required to deduct and Monthly payment by withholding agent—exception.

HeinOnline -- 1969 vol. II 1233 1969

withhold tax payments under the provisions of section 84-4903.2 shall remit such payments *monthly* to the state board of equalization for each *monthly* period on or before the *fifteenth* day of the month following the close of such *monthly* period, *except that payments for the month of December shall be made on or before the following January 31, payments for the month of March shall be made on or before the following April 30, payments for the month of June shall be made on or before the following July 31, and payments for the month of September shall be made on or before the following October 31.*

Provided, however, that when the aggregate total amount of the tax withheld under the provisions of section 84-4903.2 shall amount to less than *fifty dollars ($50)* in each quarterly period of any year, such withholding agent shall not be required to file the *monthly* returns or to make the *montly* payments last hereinabove provided for, but in lieu thereof such withholding agent shall, on or before February fifteenth of the year next succeeding that in which such payments were withheld, file an annual return in such form as shall be determined by the board, and shall pay therewith the amount required by this act to be deducted and withheld by such withholding agent from all payments paid during the preceding calendar year.''

Effective dates. Section 4. Section 1 and section 2 of this act shall be effective as to all taxable years commencing on or after December 31, 1968, whether on a calendar or fiscal year basis.

Same. Section 5. Section 3 of this act shall be effective as to all payment periods beginning after June 30, 1959.

Effective immediately. Section 6. This act shall be effective from and after its passage and approval.

Repealing clause. Section 7. Section 2 of chapter five, extraordinary session laws of Montana, 1967 is repealed.

Same. Section 8. All acts and parts of acts in conflict herewith are hereby repealed.

Approved: March 19, 1969.

HeinOnline -- 1969 vol. II 1234 1969

CHAPTER 11

An Act to Amend Section 84-1501, R.C.M. 1947, by Increasing the Corporation License Tax From Five and One-Half Percent to Six and One-Quarter Percent; Increasing the Minimum Tax; and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 84-1501, R.C.M. 1947, is amended to read as follows: Amending clause.

"84-1501. **Corporation license tax — organizations exempt therefrom.** The term corporation includes associations, joint-stock companies, common-law trusts and business trusts which do business in an organized capacity whether created under and pursuant to state laws, agreements, declarations of trust. Every corporation, except as hereinafter provided and except as provided in section 40-2821 (5), R.C.M. 1947, organized and existing under the laws of the state of Montana and engaged in business therein, shall annually pay to the state treasurer, as a license fee for carrying on business in said state of Montana, such percentage or percentages of total net income received by such corporation in the preceding fiscal year from all sources within the state of Montana as hereinafter set forth; and every corporation, except as hereinafter provided, organized and existing under the laws of any other state or country, or the United States, and engaged in business in the state of Montana, shall annually pay for the exclusive use and benefit of the state of Montana a license fee for carrying on its business in the state of Montana of such percentage or percentages of total net income received by such corporation in the preceding fiscal year from all sources within the state of Montana as hereinafter set forth. Corporate license tax—organizations exempt therefrom.

The percentage of net income to be paid under this section shall be *six and one-quarter percent (6 1/4%)* of all net income for the taxable period. The rate set forth in this act shall be effective for taxable years ending on or after February 28, *1969. For taxable years ending on or after February 28, 1971, the percentage of net income to be paid under this act shall be five and one-half per-*

HeinOnline -- 1969 vol. II 1235 1969

cent (5 1/2%) of all net income for the taxable period. Every corporation subject to taxation under this act shall, in any event, pay a minimum tax of not less than *fifty dollars ($50).*

Exemptions.

There shall not be taxed under this title any income received by any—

(a). Labor, agricultural or horticultural organization;

(b). Fraternal beneficiary, society, order or association operating under the lodge system or for the exclusive benefit of the members of fraternity itself operating under the lodge system, and providing for the payment of life, sick, accident or other benefits to the members of such society, order or association or their dependents;

(c). Cemetery company owned and operated exclusively for the benefit of its members;

(d). Corporation or association organized and operated exclusively for religious, charitable, scientific or educational purposes, no part of the net income of which inures to the benefit of any private stockholder or individual;

(e). Business league, chamber of commerce, or board of trade, not organized for profit, and no part of the net income of which inures to the benefit of any private stockholder or individual;

(f). Civic league or organization not organized for profit, but operated exclusively for the promotion of social welfare;

(g). Club organized and operated exclusively for pleasure, recreation and other nonprofitable purposes, no part of the net income of which inures to the benefit of any private stockholder or members;

(h). Farmers' or other mutual hail, cyclone, or fire insurance company, mutual ditch or irrigation company, mutual or co-operative telephone company, or like organization of a purely local character, the income of which consists solely of assessments, dues and fees collected from members for the sole purpose of meeting its expenses;

(i). Any co-operative association or corporation engaged in the business of operating a rural electrification

HeinOnline -- 1969 vol. II 1236 1969

system or systems for the transmission or distribution of electrical energy on a co-operative basis;

(j). Corporations or associations organized for the exclusive purpose of holding title to property, collecting income therefrom, and turning over the entire amount thereof, less expenses, to an organization which itself is exempt from the tax imposed by this title;

(k). In determining the license fee to be paid under this act, there shall not be included any earnings derived from any public utility managed or operated by any subdivision of the state, or from the exercise of any governmental function."

Section 2. Notwithstanding the provisions of this act, corporations electing and qualifying under section 84-1501.2 shall pay a minimum fee of ten dollars ($10). Minimum fee.

Section 3. This act is effective upon its passage and approval. Effective immediately.

Approved: March 19, 1969.

CHAPTER 12

An Act Providing for the Imposition of a Tax on the Sale of All Tobacco Products, Not Including Cigarettes.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. **Definitions.** As used in this act, the following definitions shall apply unless the context otherwise requires:

(1) The word "board" shall mean the state board of equalization of the state of Montana. "Board."

(2) The word "person" shall mean any individual, firm, fiduciary, partnership, corporation, trust, organization or association, however formed. "Person."

(3) The word "cigarettes" shall mean any roll for smoking made wholly or in part of tobacco, irrespective of size or shape and whether or not such tobacco is flavored, adulterated or mixed with any other ingredient, "Cigarettes."

HeinOnline -- 1969 vol. II 1237 1969

the wrapper or cover of which is made of paper or any other substance or material except tobacco.

"Sale." (4) The words "sale" or "sell" shall mean and include any transfer for a consideration, exchange, barter, gift, offer for sale and distribution, in any manner, or by any means whatever of tobacco products, other than cigarettes.

"Wholesaler." (5) The word "wholesaler" shall mean any person who purchases tobacco products, other than cigarettes, directly from the manufacturer, or who purchases tobacco products, other than cigarettes, from any other person who purchases from the manufacturer, and who acquires such products for the purpose of bona fide sales to retail dealers, or who services retail outlets by the maintenance of an established place of business for the purchase of tobacco products, other than cigarettes, including, but not limited to, the maintenance of warehousing facilities for the storage and distribution of tobacco products. The word "retailer" shall mean any person other than a wholesaler who is engaged in the business of selling tobacco products to the ultimate consumer.

"Wholesale price." (6) The words "wholesale price" shall mean the established price for which a manufacturer sells a tobacco product, other than cigarettes, to a wholesaler or unclassified acquirer before any discount or other reduction.

Presumption of direct taxes on retail consumer. Section 2. (1) All taxes paid pursuant to the provisions of this section shall be exclusively presumed to be direct taxes on the retail consumer, precollected for the purpose of convenience and facility only. When the tax is paid by any other person such payment shall be considered as an advance payment and shall be added to the price of tobacco products, other than cigarettes, and recovered from the ultimate consumer or user. Any person selling tobacco products, other than cigarettes, at retail shall state or separately display in the premises where such products are sold, a notice of the tax included in the selling price and charged or payable pursuant to this section. The provisions of this section shall in no way affect the method of collection of such tax as hereinafter provided.

(2) There is hereby levied, imposed and assessed, and

HeinOnline -- 1969 vol. II 1238 1969

there shall be collected and paid to the state of Montana, upon tobacco products, other than cigarettes, sold or possessed in this state, a tax of twelve and one-half percent (12½%) of the wholesale price of such products to the wholesaler, excepting therefrom such said products as may be shipped from Montana and destined for retail sale and consumption outside the state of Montana.

Precollected tax.

Section 3. The tax imposed shall be precollected and paid by the wholesaler to the board prior to the sale of tobacco products, other than cigarettes, to the purchaser from the wholesaler.

Violation—penalty.

Section 4. Any wholesaler who shall sell any tobacco products, other than cigarettes, without first making payment of the tax provided for by this act in the manner and at the time specified shall be guilty of a misdemeanor, and further shall be enjoined by an action pursued in the district court of the county of Lewis and Clark, Montana from making further sale of tobacco products, other than cigarettes, for a period not less than one (1) month nor more than one (1) year.

Same.

Section 5. It shall be unlaful for any person, individual, firm or corporation to sell or offer to sell any tobacco products subject to this tax without the tax having been prepaid as provided for in this act. Violation of this section shall constitute a misdemeanor punishable by a fine of not more than five hundred dollars ($500) or imprisonment for not more than six (6) months.

Collection allowance.

Section 6. The taxes specified in this act that are paid by the wholesaler, shall be paid to the board in full less a five percent (5% defrayment for his collection and administrative expense and shall be deposited by the board in the long-range building sinking fund number 338766. Refunds of the tax paid shall be made as provided in section 84-726, R.C.M. 1947, in cases where the tobacco products purchased become unsaleable.

Rules and regulations.

Section 7. The board is authorized to adopt rules for the effective collection and refund of the tax imposed by this act.

Approved: March 19, 1969.

HeinOnline -- 1969 vol. II 1239 1969

HeinOnline -- 1969 vol. II 1240 1969

APPROPRIATIONS

ENACTED BY THE

Extraordinary Session

OF THE

Forty-first Legislative Assembly

STATE OF MONTANA

1969

HeinOnline -- 1969 vol. II 1241 1969

HeinOnline -- 1969 vol. II 1242 1969

APPROPRIATION MEASURES

EXTRAORDINARY SESSION HOUSE BILL NO. 1

An Act Appropriating Money for the Operation of the Extraordinary Session of the Forty-First Legislative Assembly Convened on March 10, 1969; Specifying an Immediate Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. One hundred thousand dollars ($100,000) is appropriated from the general fund for the operation of the extraordinary session of the forty-first legislative assembly convened on March 10, 1969.

Section 2. This act is effective on passage and approval.

Approved: March 14, 1969.

EXTRAORDINARY SESSION HOUSE BILL NO. 2

An Act to Appropriate Money for the Support of the Public Schools; Appropriating Money for the Foundation Program and School Transportation Payments for the Biennium Ending June 30, 1971; Providing for Appropriations for Payments to School Districts for Children of a State Employee Residing on the Property of State Institutions Who Attend School in the District for the Fiscal Years Ending June 30, 1970, and June 30, 1971.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. The following moneys are appropriated for the biennium ending June 30, 1971:

	For the Fiscal Year Ending June 30, 1970	For the Fiscal Year Ending June 30, 1971
(1) From the general fund for payment of state equalization aid to common school districts, high school districts and county high schools in accordance with the school foundation program	$17,150,000	$15,850,000

HeinOnline -- 1969 vol. II 1243 1969

(2) From the general fund for payment of transportation aid in accordance with Montana school law	1,400,000	1,425,000
(3) From the earmarked revenue fund, state equalization aid account No. 221700, for payments to school districts in accordance with the provisions of section 75-3624, R.C.M. 1947:		
(a) For the fiscal year ending June 30, 1970, as much as may be necessary to fulfill the legal obligations of the act;		
(b) For the fiscal year ending June 30, 1971, as much as may be necessary to fulfill the legal obligations of the act.		

Section 2. It is the intent of the legislative assembly that if a part of this act is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this act is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Approved: March 19, 1969.

EXTRAORDINARY SESSION HOUSE BILL NO. 3

An Act to Appropriate Monies to the Attorney General, State Auditor, Governor, Railroad and Public Service Commission, Secretary of State, Supreme Court, State Treasurer, Superintendent of Public Instruction and the Board of Education for Operation and Capital for the Biennium Ending June 30, 1971.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. For the purposes of this act, unless otherwise stated:

HeinOnline -- 1969 vol. II 1244 1969

(1) The term "operation" means all ordinary and necessary expenditures for operation of the agency to which the appropriation applies, and repairs and maintenance, but does not include personal services.

(2) The term "personal services" means all salaries and wages of full-time, part-time, and temporary employees of the state and includes the state's contribution for social security, employees' retirement, industrial accident insurance, and any authorized health insurance.

(3) The term "repairs and maintenance" means repairs to equipment and the cost of replacing parts of equipment, repairs to buildings and to the plumbing, heating, wiring and air-conditioning systems in buildings, occasioned by ordinary wear and tear or by physical damage, and the cost of painting the exteriors and interiors of buildings. Major alterations of existing buildings are capital expenditures and are not repairs and maintenance.

(4) The term "capital" means those items which do not lose their identity, which are adaptable to continuing use and have a useful life of more than one (1) year. Capital shall include the replacement of existing capital assets, as well as new acquisitions, but does not include expenditures for the construction, improvement, betterment, or furnishing of buildings, structures, or purchase of buildings or land unless specifically authorized.

(5) The term "grants and benefits" means expenditures for grants to political subdivisions, associations, or individuals, and includes, but is not limited to retirement and disability compensation, and unemployment benefits.

(6) The term "approved budget amendment" means approval of a request by the governor submitted to him through the budget director. An informational copy of each request for a budget amendment shall be filed with the legislative fiscal analyst.

Section 2. (1) The appropriations contained in this act are intended to provide only necessary and ordinary expenditures for the year for which the appropriations were made. The unexpended balance of any appropriation shall revert to the fund from which it was appropriated at the end of each fiscal year, except amounts encumbered by purchase order. However, in case of necessity, an appropriation not expended during the first fiscal year of the biennium may be expended during the second fiscal year if authorized by the governor by an approved budget amendment.

HeinOnline -- 1969 vol. II 1245 1969

(2) It shall be unlawful to purchase any article or service for a succeeding biennium with an appropriation contained in this act.

(3) Any monies appropriated for budgeted positions that are not filled shall revert to the fund from which appropriated.

Section 3. Unless otherwise provided in this act, all monies received or collected from any source whatsoever by the agencies, boards, or institutions named in this act shall be deposited in the state treasury and credited to the proper fund.

Section 4. The salary of the chief administrator of each agency, commission, board or institution shall be determined by the appointing authority in accordance with the statutory provisions and, in no case, shall the salary determined exceed the amounts set out in this act for the agency.

Section 5. In addition to the appropriations contained in this act, all other monies received from all other sources may be made available by an approved budget amendment.

Section 6. No state officer, department, board, agency, commission, or institution shall establish new programs or expand existing programs beyond the scope of the programs already established, recognized and approved by the legislature in the review of the 1971 biennial budget, until such program and the method of financing shall be presented to the governor through the budget director, for approval.

Section 7. Where the operation of an office, department, board, agency, commission, or institution is financed by an appropriation or appropriations from the general fund as well as by funds from other sources, the portion provided by appropriation from the general fund shall be decreased to the extent that the receipt of the funds from other sources approved by the legislature in the review of the 1971 biennial budget are exceeded, provided that:

(1) Such decrease shall not jeopardize the receipt of such funds to be received from other sources; and

(2) This section shall not apply to any fund if such excess receipts are to be expended for a purpose or purposes approved by the governor, upon a request submitted to him, through the budget director.

Section 8. The following monies are appropriated for the biennium ending June 30, 1971:

HeinOnline -- 1969 vol. II 1246 1969

	For the Fiscal Year Ending June 30, 1970	For the Fiscal Year Ending June 30, 1971
ATTORNEY GENERAL		
(1) From the General Fund for:		
(a) personal services	$150,370	$174,130
(b) operation and capital	61,904	48,335
(c) Criminal Investigator, personal services	44,237	47,242
(d) Criminal Investigator, operation and capital	21,015	16,935
(e) Teletypewriter Communications, personal services	9,600	9,600
(f) Teletypewriter Communications, operation	12,960	23,842
(2) From the Earmarked Revenue Fund, Escheated Estates Account for:		
(a) personal services	10,651	11,011
(b) operation	8,825	8,825
(3) Revolving Fund #705600 Teletypewriter Communications, personal services and operation	26,560	26,560
(4) There is hereby appropriated from the Agency Fund, Escheated Estates Account to the Earmarked Revenue Fund, Escheated Estates Account, sufficient monies to meet the appropriations in items (2) (a), (b) above.		
STATE AUDITOR		
(1) From the General Fund for:		
(a) personal services	241,499	252,164
(b) operation and capital	108,830	91,960
(2) From the Earmarked Revenue Fund, Highway Account for:		
(a) operation and capital	25,000	25,000

HeinOnline -- 1969 vol. II 1247 1969

(3) From the Earmarked Revenue Fund, Firemen's Disability Account, for the distribution of premium tax collections as provided in sections 11-1919 and 11-2030, R.C.M. 1947, an appropriation sufficient to meet the requirements provided by law.

(4) From the Earmarked Revenue Fund, Police Revenue Account, for the distribution of premium tax collections as provided in section 11-1834, R.C.M. 1947, an appropriation sufficient to meet the requirements as provided by law. The State Auditor shall not distribute any of the moneys hereby appropriated to any city or town, having a police retirement system established under the provisions of the Metropolitan Police Law, which is not levying at least a portion of the maximum levy required by law for the fund for the payment of salaries of police officers on the reserve list. However, this restriction shall not apply to cities or towns which have on deposit in the fund for payment of salaries of reserve police officers an amount of money equal to the product of seven thousand dollars ($7,000) multiplied by the number of active members of the police department of the city or town. Nor shall the State Auditor distribute any of the monies hereby appropriated to any city or town having a police retirement system established under the provisions of the Metropolitan Police Law, which is not collecting five percent (5%) of the monthly wage from each active member of its police department, unless the city or town has on deposit an amount of money equal to the product of seven

HeinOnline -- 1969 vol. II 1248 1969

thousand dollars ($7,000) multiplied by the number of active members of the police department of such city or town.

(5) From the General Fund, State Central Payroll System for:

(a) personal services	10,570	11,020
(b) operation and capital	11,430	10,780

(6) From the Revolving Fund, Centralized Payroll Account for:

(a) personal services	11,850	12,540
(b) operation and capital	29,150	27,960

Additional monies in this account may be made available by approved budget amendment.

GOVERNOR

(1) From the General Fund for:

(a) Governor's office for personal services	116,983	122,239
(b) Governor's office for operation and capital	45,340	50,190
(c) Governor's Mansion for personal services	12,250	12,870
(d) Governor's Mansion for operation and capital	15,320	15,445
(e) State Federal Coordinator for personal services, operation and capital	52,225	53,236

(2) From the Federal and Private Revenue Fund for:

(a) Law Enforcement Planning Committee Account for personal services, operation and capital	290,768	297,280

HeinOnline -- 1969 vol. II 1249 1969

(3) From the Federal and Private Grant Clearance Fund for:		
(a) Law Enforcement Planning Committee Account for personal services, operation and capital	82,028	200,000
RAILROAD AND PUBLIC SERVICE COMMISSION		
(1) From the General Fund for:		
(a) personal services	188,734	199,061
(b) operation and capital	64,700	67,800
SECRETARY OF STATE		
(1) From the General Fund for:		
(a) personal services	108,302	113,333
(b) operation and capital	46,350	60,980
SUPREME COURT		
(1) From the General Fund for:		
(a) administration of the Supreme Court for personal services	194,773	196,790
(b) administration of the Supreme Court for operation and capital	21,190	20,135
(c) Attorney's Licensing Board	8,900	8,900
STATE TREASURER		
(1) From the General Fund for:		
(a) personal services	56,660	58,766
(b) operation and capital	6,325	6,692
(2) From the Earmarked Revenue Fund, Unclaimed Property Account for:		
(a) personal services, operation and capital	8,734	9,509
There is hereby appropriated from the Agency Fund, Unclaimed Prop-		

HeinOnline -- 1969 vol. II 1250 1969

erty Account, to the Earmarked Revenue Fund, Unclaimed Property Account, sufficient monies to meet the appropriations in item (2) (a) above.

SUPERINTENDENT OF PUBLIC INSTRUCTION

(1) From the General Fund for:		
(a) all duties and services of the office of the Superintendent of Public Instruction including the National Defense Education Act but excluding the Manpower Development and Training Act and Vocational Education, for personal services, operation and capital	476,522	506,919
(b) Manpower Development and Training, personal services, operation and capital and educational training projects	45,047	49,547
(c) Vocational Education, personal services, operation and capital	68,725	74,867
(2) From the Earmarked Revenue Fund for:		
(a) Drivers' Education Account for personal services, operation and capital	24,000	24,000
(b) Drivers' Education Account for distribution to schools in accordance with provisions of House Bill No. 318, Forty-first Legislative Assembly, as much as is available for distribution.		
(c) State Equalization Aid Account for all duties and services of the office of the Superintendent of Public Instruction including the National Defense Education Act but excluding the Manpower		

HeinOnline -- 1969 vol. II 1251 1969

Development and Training Act and Vocational Education, for personal services, operation and capital	189,432	201,681
(d) State Equalization Aid Account for Vocational Education, personal services, operation and capital	90,172	93,685
(e) The amount of $25,000 is appropriated from the Earmarked Revenue Fund, State Equaliza- Aid Account to the Revolving Fund, School Lunch Program Account, to cover the handling charges of commodities to districts to be reimbursed by such districts. Any balance remaining in the Revolving Fund, School Lunch Program Account, at the end of the biennium shall revert to the fund from which it was appropriated.		
(3) From the Federal and Private Revenue Fund, Public Instruction Account for:		
(a) All duties and services of the of the office of the Superintendent of Public Instruction including the National Defense Education Act but excluding the Manpower Development and Training Act and Vocational Education, for personal services, operation and capital	1,996,342	2,102,554
(b) Manpower Development and Training for personal services, operation and capital	43,800	45,600
(c) Vocational Education for personal services, operation and capital	139,517	127,686
(d) All federal monies are hereby appropriated.		

HeinOnline -- 1969 vol. II 1252 1969

(4) From the Federal and Private Revenue Fund, Surplus Donable Property Account:		
(a) For personal services, operation and capital	51,725	57,240
(b) Revenues received in excess of the accounts specified in subsection (a) are hereby appropriated.		
BOARD OF EDUCATION		
(1) From the Earmarked Revenue Fund for:		
(a) University Millage Fund for Board of Education, personal services, operation and capital	24,537	27,447
(2) From the General Fund for the control and supervision of interschool contests and programs as provided in Senate Bill No. 154, Forty-first Legislative Assembly	63,000	66,500

Approved: March 17, 1969.

EXTRAORDINARY HOUSE BILL NO. 4

An Act to Appropriate Monies to Certain State Agencies for the Biennium Ending June 30, 1971.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. For the purposes of this act, unless otherwise stated:

(1) The term "operation" means all ordinary and necessary expenditures for operation of the agency to which the appropriation applies, and repairs and maintenance, but does not include personal services.

(2) The term "personal services" means all salaries and wages of full-time, part-time, and temporary employees of the state and includes the state's contribution for social security, employees' retirement, industrial accident insurance, and any authorized health

HeinOnline -- 1969 vol. II 1253 1969

insurance. Employees' annual salary increases for the fiscal year ending June 30, 1970, shall not exceed five percent (5%) of the annual salary received during the fiscal year ending June 30, 1969, unless promoted to a position with additional responsibilities, duties, or both. Employees' annual salary increases for the fiscal year ending June 30, 1971, shall not exceed five percent (5%) of the annual salary received during the fiscal year ending June 30, 1970, unless promoted to a position with additional responsibilities, duties, or both.

(3) The term "repairs and maintenance" means repairs to equipment and the cost of replacing parts of equipment, repairs to buildings and to the plumbing, heating, wiring and air-conditioning systems in buildings, occasioned by ordinary wear and tear or by physical damage, and the cost of painting the exteriors and interiors of buildings. Major alterations of existing buildings are capital expenditures and are not repairs and maintenance.

(4) The term "capital" means those items which do not lose their identity, which are adaptable to continuing use and have a useful life of more than one (1) year. Capital shall include the replacement of existing capital assets, as well as new acquisitions, but does not include expenditures for the construction, improvement, betterment, or furnishing of buildings, structures, or purchase of buildings or land unless specifically authorized.

(5) The term "grants and benefits" means expenditures for grants to political subdivisions, associations, or individuals, and includes, but is not limited to retirement and disability compensation, and unemployment benefits.

(6) The term "approved budget amendment" means approval of a request by the governor submitted to him through the budget director. An informational copy of each request for a budget amendment shall be filed with the legislative fiscal analyst.

Section 2. (1) The appropriations contained in this act are intended to provide only necessary and ordinary expenditures for the year for which the appropriations were made. The unexpended balance of any appropriation shall revert to the fund from which it was appropriated at the end of each fiscal year, except amounts encumbered by purchase order. However, in case of necessity, an appropriation not expended during the first fiscal year of the biennium may be expended during the second fiscal year if authorized by the governor by an approved budget amendment.

HeinOnline -- 1969 vol. II 1254 1969

(2) It shall be unlawful to purchase any article or service for a succeeding biennium with an appropriation contained in this act.

(3) Any monies appropriated for budgeted positions that are not filled shall revert to the fund from which appropriated.

Section 3. Unless otherwise provided in this act, all monies received or collected from any source whatsoever by the agencies, boards, or institutions named in this act shall be deposited in the state treasury and credited to the proper fund.

Section 4. The salary of the chief administrator of each agency, commission, board or institution shall be determined by the appointing authority in accordance with the statutory provisions and, in no case, shall the salary determined exceed the amounts set out in this act for the agency.

Section 5. In addition to the appropriations contained in this act, all other monies received from all other sources may be made available by an approved budget amendment.

Section 6. No state officer, department, board, agency, commission, or institution shall establish new programs or expand existing programs beyond the scope of the programs already established, recognized and approved by the legislature in the review of the 1971 biennial budget, until such program and the method of financing shall be presented to the governor through the budget director, for approval.

Section 7. Where the operation of an office, department, board, agency, commission, or institution is financed by an appropriation or appropriations from the general fund as well as by funds from other sources, the portion provided by appropriation from the general fund shall be decreased to the extent that the receipt of the funds from other sources approved by the legislature in the review of the 1971 biennial budget are exceeded, provided that:

(1) Such decrease shall not jeopardize the receipt of such funds to be received from other sources; and

(2) This section shall not apply to any fund if such excess receipts are to be expended for a purpose or purposes approved by the governor, upon a request submitted to him, through the budget director.

Section 8. The following monies are appropriated for the biennium ending June 30, 1971:

HeinOnline -- 1969 vol. II 1255 1969

	For the Fiscal Year Ending June 30, 1970	For the Fiscal Year Ending June 30, 1971
ADJUTANT GENERAL		
(1) From the general fund for:		
(a) personal services	$183,700	$192,900
(b) operation and capital	172,200	174,400
(c) reimbursement for costs, expenses, and maintenance of joint use facilities	2,000	2,000
(2) From the federal and private revenue fund, national guard account for:		
(a) operation	113,500	113,500
(b) reimbursement for costs, expenses, and maintenance of joint use facilities	8,000	8,000
DEPARTMENT OF AGRICULTURE		
(1) From the general fund for:		
(a) personal services	342,700	360,400
(b) operation and capital	98,600	103,100
(c) marketing coordinator	11,000	11,000
(2) From the earmarked revenue fund:		
(a) commercial feed account for personal services, operation, and capital	38,400	40,200
(b) commercial fertilizer account for personal services	14,304	15,841
(c) commercial fertilizer account for operation and capital	23,378	21,254
(d) grain services account for personal services	257,400	270,300
(e) grain services account for operation and capital	28,700	29,800

HeinOnline -- 1969 vol. II 1256 1969

(3) From the federal and private revenue fund:		
(a) marketing service account for personal services, operation and capital	13,250	13,250
(4) The amount of $5,000 is hereby appropriated from the general fund to the revolving fund, agriculture department account, and from the revolving fund, agriculture department account for reimbursable expenditures for egg seals, cheese and butter inspections and grading, and special inspections of scales. Any balance remaining in this account at the end of the biennium shall revert to the general fund.		
(5) The head of this agency shall not receive a salary in excess of $14,000 for the fiscal year ending June 30, 1970; and $14,000 for the fiscal year ending June 30, 1971.		
CIVIL DEFENSE		
(1) From the general fund for:		
(a) personal services	51,521	53,992
(b) operation and capital	18,000	18,900
(2) From the federal and private revenue fund:		
(a) civil defense account (No. 410510) for personal services, operation and capital	100,000	103,000
(b) civil defense account (No. 410526) for personal services, operation and capital	32,000	33,000
COUNTY ATTORNEYS		
(1) From the general fund for:		
(a) personal services	152,579	163,195

HeinOnline -- 1969 vol. II 1257 1969

STATE ENTOMOLOGIST

(1) From the general fund for:

(a) personal services	27,800	29,200
(b) operation	6,800	7,200
(c) capital	300	200

STATE EXAMINER

(1) From the general fund for:

(a) personal services	302,850	318,000
(b) operation and capital	59,000	63,000

(2) From the earmarked revenue fund, special examinations account for:

(a) operation	35,000	35,000

(3) From the revolving fund, state examiner's account for:

(a) all fees for special examinations of state agencies are appropriated. Any balance remaining in this account at the end of the biennium shall revert to the general fund.

(4) The head of this agency shall not receive a salary in excess of $13,000 for the fiscal year ending June 30, 1970; and $13,000 for the fiscal year ending June 30, 1971.

HIGHWAY PATROL

(1) From the general fund for:

(a) personal services	1,579,100	1,658,000
(b) operation	932,000	921,000
(c) capital	206,300	138,000

(d) transfers between objects may be made by approved budget amendment.

HeinOnline -- 1969 vol. II 1258 1969

(2) From the earmarked revenue fund, highway account for:		
(a) personal services	90,200	94,700
(b) operation and capital	69,000	71,000
(3) From the federal and private revenue fund, highway patrol account for:		
(a) personal services, operation, and capital	84,600	91,600
(4) The head of this agency shall not receive a salary in excess of $13,300 for the fiscal year ending June 30, 1970; and $14,000 for the fiscal year ending June 30, 1971.		

HISTORICAL SOCIETY

(1) From the general fund for:		
(a) personal services, operation, and capital	149,263	145,496
(2) From the earmarked revenue fund, historical society account for:		
(a) personal services, operation and capital	43,387	45,121
(3) From the revolving fund historical society account	149,830	153,468
(4) The head of this agency shall not receive a salary in excess of $13,125 for the fiscal year ending June 30, 1970; and $13,800 for the fiscal year ending June 30, 1971.		

COMMISSIONER OF LANDS AND INVESTMENTS

(1) From the general fund for:		
(a) personal services	159,300	167,300
(b) operation and capital	43,575	43,575
(2) From the earmarked revenue fund,		

HeinOnline -- 1969 vol. II 1259 1969

lands and investments resource development account for:		
(a) personal services	18,000	19,000
(b) operation and capital, all funds in the account not otherwise appropriated.		
(3) The head of this agency shall not receive a salary in excess of $14,200 for the fiscal year ending June 30, 1970; and $15,000 for the fiscal year ending June 30, 1971.		
LIQUOR CONTROL BOARD		
(1) From the earmarked revenue fund, liquor control board account for:		
(a) personal services	1,950,000	2,050,000
(b) operation and capital	625,000	625,000
(c) out-of-state travel: administrator and board	2,000	2,000
(d) out-of-state travel: inspectors	2,000	2,000
(2) The head of this agency shall not receive a salary in excess of $12,500 for either year of the biennium ending June 30, 1971.		
LIVESTOCK COMMISSION		
(1) From the general fund for: (a) emergency control of rabies	10,000	
(2) From the earmarked revenue fund, livestock commission account for:		
(a) personal services	484,300	508,515
(b) operation and capital	195,802	197,000
(c) brand re-recording		
i. personal services		37,796
ii. operation and capital		15,264

HeinOnline -- 1969 vol. II 1260 1969

(3) The head of this agency shall not receive a salary in excess of $13,250 for the fiscal year ending June 30, 1970; and $13,750 for the fiscal year ending June 30, 1971.

LIVESTOCK SANITARY BOARD

(1) From the general fund for:

(a) personal services	209,836	300,018
(b) operation and capital	43,277	54,900
(c) veterinary research grant	10,400	10,400

(2) From the earmarked revenue fund, livestock sanitary board account for:

(a) personal services	256,106	185,000
(b) operation and capital	50,000	35,000

(3) From the federal and private revenue fund, livestock sanitary account for:

(a) personal services	117,479	122,568
(b) operation	10,073	8,680

(4) The head of this agency shall not receive a salary in excess of $17,850 for the fiscal year ending June 30, 1970; and $18,275 for the fiscal year ending June 30, 1971.

BOARD OF PARDONS

(1) From the general fund for:

(a) personal services	102,000	107,200
(b) operation and capital	37,500	39,000

(2) The head of this agency shall not receive a salary in excess of $10,000 for the fiscal year ending June 30, 1970; and $10,200 for the fiscal year ending June 30, 1971.

HeinOnline -- 1969 vol. II 1261 1969

DEPARTMENT OF PLANNING AND ECONOMIC DEVELOPMENT

(1) From the general fund for:

(a) personal services, operation, and capital	300,000	300,000

(2) From the federal and private revenue fund, planning board account, all funds available are hereby appropriated.

(3) The head of this agency shall not receive a salary in excess of $22,500 for either year of the biennium ending June 30, 1971.

REGISTRAR OF MOTOR VEHICLES

(1) From the earmarked revenue fund, motor vehicle account for:

(a) personal services	356,000	385,000
(b) operation	345,000	350,000
(c) capital	20,000	14,000

(2) The head of this agency shall not receive a salary in excess of $10,500 for the fiscal year ending June 30, 1970; and $11,000 for the fiscal year ending June 30, 1971.

EMPLOYMENT SECURITY COMMISSION

(1) From the federal and private revenue fund, ESC administrative account for:

(a) personal services	3,222,343	3,334,505
(b) operation and capital	499,473	503,441

(2) From the federal and private revenue fund, Manpower Development and Training Act (MDTA) payments account 1,735,000 1,735,000

HeinOnline -- 1969 vol. II 1262 1969

DEPARTMENT OF ADMINISTRATION

(1) From the general fund for:		
(a) personal services	295,000	310,514
(b) operation and capital	311,000	317,885
(c) the state controller shall deposit one dollar ($1) per square foot of rent monies for each year collected for rent on state buildings in the capitol complex with the state treasurer to the credit of the general fund.		
(2) From the general fund for: accounting system design and implementation		
(a) personal services	73,594	77,406
(b) operation and capital	24,500	24,500
(c) consultants	20,000	20,000
(d) transfers between objects may be made by approved budget amendment.		
(3) From the earmarked revenue fund:		
(a) aeronautics commission account for operation	4,000	4,000
(b) fish and game account for operation	24,000	24,000
(c) highway account for operation	73,000	73,000
(d) veterans' memorial account for operation and capital	1,600	
(4) From the federal and private revenue fund, capital building account for:		
(a) operation	43,410	49,350
(b) renovating the attorney general's office, providing a ventilation system therefore, and for certain new furnishings	8,200	

HeinOnline -- 1969 vol. II 1263 1969

(5) From the revolving fund:

(a) All revenue derived from central data processing and the supervision and inspection of building construction performed by the department of administration shall be deposited in the revolving fund, general services account or construction supervision account. All monies deposited in either of these accounts, are appropriated to the department of administration.

(6) The head of this agency shall not receive a salary in excess of $20,000 for the fiscal year ending June 30, 1970; and $20,000 for the fiscal year ending June 30, 1971.

DIRECTOR OF THE BUDGET

(1) From the general fund for:

(a) personal services	59,677	65,019
(b) operation and capital	14,550	18,750

(2) The head of this agency shall not receive a salary in excess of $13,608 for the fiscal year ending June 30, 1970; and $14,244 for the fiscal year ending June 30, 1971.

DEPARTMENT OF PUBLIC WELFARE

(1) From the general fund for:

(a) personal services, operation and capital	6,388,606	6,618,579

(2) From the federal and private revenue fund, public welfare account for:

(a) personal services, operation and capital	1,878,500	2,041,000

(3) Any funds available to the department of public welfare which are unexpended during the biennium ending

HeinOnline -- 1969 vol. II 1264 1969

June 30, 1969, are hereby reappropriated to the biennium ending June 30, 1971.

(4) The head of this agency shall not receive a salary in excess of $16,000 for the fiscal year ending June 30, 1970; and $16,000 for the fiscal year ending June 30, 1971.

SOIL CONSERVATION COMMITTEE

(1) From the general fund for:		
(a) personal services	17,000	17,000
(b) operation and capital	9,300	9,300
(c) watershed project planning	75,000	75,000
(2) The head of this agency shall not receive a salary in excess of $11,000 for the fiscal year ending June 30, 1970; and $11,000 for the fiscal year ending June 30, 1971.		

DIVISION OF VOCATIONAL REHABILITATION

(1) From the general fund for:		
(a) personal services, operation and capital	265,775	275,250
(2) From the federal and private revenue fund, vocational rehabilitation account for:		
(a) personal services, operation and capital	1,445,723	1,723,552
(3) From the agency fund, industrial accident rehabilitation account for:		
(a) personal services, operation and capital	50,000	50,000
(4) The head of this agency shall not receive a salary in excess of $12,500 for the fiscal year ending June 30, 1970; and $13,000 for the fiscal year ending		

HeinOnline -- 1969 vol. II 1265 1969

June 30, 1971. This salary shall be paid from the general fund appropriation.

WATER RESOURCES BOARD

(1) From the general fund for:		
(a) personal services	494,292	524,292
(b) operation and capital	110,100	116,300
(c) ground water	15,000	15,000
(d) river basins commission	40,000	40,000
(e) water resources study	95,000	95,000
(f) statewide comprehensive water plan	77,000	77,000
(g) Sidney water users' project	250,000	
(h) Computer Water Planning Model	25,000	16,000
Item (g) is not limited by annual reversion provision as specified in Section 2. (1) of this act.		
(2) From the earmarked revenue fund, water conservation account for:		
(a) operation and capital	214,500	150,000
(3) From the federal and private revenue fund, water board account for:		
(a) field program and comprehensive water plan program	98,000	103,500

(4) The head of this agency shall not receive a salary in excess of $12,600 for the fiscal year ending June 30, 1970; and $13,200 for the fiscal year ending June 30, 1971.

MONTANA ARTS COUNCIL

(1) From the earmarked revenue fund, Montana arts council account, all donations, gifts, bequests, and grants are appropriated to the Montana arts council for operation and capital.

HeinOnline -- 1969 vol. II 1266 1969

(2) From the general fund for personal services and operations	25,000	25,000
COMMISSION ON UNIFORM STATE LAWS		
(1) From the general fund for:		
(a) operation and capital	2,100	2,100
COMMISSION ON AGING		
(1) From the general fund for:		
(a) personal services	9,600	9,600
(b) operation and capital	4,000	4,000
(2) From the federal and private revenue fund, problems of aging account for:		
(a) personal services	9,600	9,600
(b) operation and capital	4,000	4,000
(3) The head of this agency shall not receive a salary in excess of $9,000 for the fiscal year ending June 30, 1970; and $9,000 for the fiscal year ending June 30, 1971.		

Approved: March 19, 1969.

EXTRAORDINARY SESSION HOUSE BILL NO 5

An Act Appropriating Monies for Certain State Agencies and Institutions of Government for the Biennium Ending June 30, 1969.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. The following amounts of money are appropriated for the biennium ending June 30, 1969:

Agriculture, Department of:

From the general fund for publication of a statistical report, for operation, one thousand five hundred dollars ....$ 1,500

HeinOnline -- 1969 vol. II 1267 1969

Secretary of State:

From the general fund for personal services and operation, forty-six thousand six hundred and sixty dollars 46,660

Administration, Department of:

From the general fund for operation and capital, thirty thousand dollars 30,000

Galen State Hospital:

From the general fund for personal services, eighty-nine thousand eight hundred dollars 89,800

Law Library:

From the general fund for operation and capital, three thousand dollars 3,000

Mountain View School:

From the general fund for clothing, medical costs, and unanticipated communication, for operation, seventeen thousand dollars 17,000

Governor's Office and Mansion:

From the general fund for personal services, operation, and capital, governor's office, fifty thousand dollars 50,000

From the general fund for personal services, operation, and capital, governor's mansion, thirty-five hundred dollars 3,500

Public Welfare, Department of:

From the general fund for operation, six hundred and seventeen thousand five hundred dollars 617,500

Warm Springs State Hospital:

From the general fund for personal services, eighty thousand one hundred dollars 80,100

From the general fund for personal services, dairy program, thirty-eight thousand nine hundred and forty-six dollars 38,946

From the general fund for operation, twenty-five thousand dollars 25,000

HeinOnline -- 1969 vol. II 1268 1969

Montana State Prison:

From the general fund for completion of dairy building and purchase of smokehouse oven, for operation and capital, forty-four thousand six hundred and seventy-four dollars 44,674

Lands & Investments, Department of:

From the general fund for payment to counties authorized by section 81-1118, R.C.M. 1947, for grants and benefits, one hundred and thirty-three thousand dollars 133,000

Eastern Montana Facility for Mentally Retarded:

From the general fund for initial staffing and program development, for personal services, operation and capital, ten thousand six hundred and forty-two dollars 10,642

Governor:

From the general fund for personal services, operation, and capital, State-Federal Coordinator program, seventeen thousand four hundred and fifty-two dollars 17,452

Highway Traffic Safety Director:

From the earmarked revenue fund, state highway account for personal services, operation, and capital, eight thousand four hundred dollars 8,400

Liquor Control Board:

From the earmarked revenue fund, Liquor Control Board account for travel, five hundred dollars 500

From the earmarked revenue fund, Liquor Control Board account for personal services, two hundred and fifteen thousand one hundred dollars 215,100

Highway Commission:

From the earmarked revenue fund, highway account for personal services, operation, and capital, maintenance program, five hundred and forty-five thousand six hundred and seventy-two dollars 545,672

From the earmarked revenue fund, highway account for a functional highway classification study for personal services, operation, and capital, thirty thousand dollars 30,000

HeinOnline -- 1969 vol. II 1269 1969

From the federal and private revenue fund, highway trust account for a functional highway classification study, for personal services, operation, and capital, ninety thousand dollars 90,000

Fish & Game Commission:

From the bond proceeds and insurance clearance fund, long-range building program account for development of Plenty Coups state park and museum, twenty-five thousand dollars 25,000

The $25,000 appropriated by this act to the fish and game commission for the development of Plenty Coups state park and museum shall be expended in conjunction with $25,000 of donated funds pledged by Mr. Ed Kopac of Hardin, Montana who has also offered to donate some $10,000 in Indian paintings to the museum and in conjunction with $25,000 of donated funds authorized by the Crow Tribal Council resolution No. 68-29 of April 13, 1968.

Children's Center:

For compliance with Executive Order No. 1-69 to establish a counselor system and forty-hour week for counselors, there is hereby transferred to general fund appropriation number 66005, personal services, from general fund appropriation number 66003, operation and capital, thirty-eight thousand three hundred and eighty-five dollars 38,385

Industrial Accident Board:

For payment of claims for medical examinations, there is hereby transferred to general fund appropriation number 62603, operation, from general fund appropriation number 62604, grants and benefits, two thousand four hundred dollars 2,400

Livestock Sanitary Board:

For payment of part-time employees, there is hereby transferred to the appropriation from the earmarked revenue fund, Livestock Sanitary Board account, appropriation number 30204, disease control, part-time salaries, from the appropriation from the earmarked revenue fund, Livestock Sanitary Board Account, appropriation number 30202, personal services, exclusive of part-time, seven thousand five hundred dollars 7,500

HeinOnline -- 1969 vol. II 1270 1969

Highway Commission:

For payment of salaries and wages, there is hereby transferred to the appropriation from the earmarked revenue fund, highway account, appropriation number 36718, personal services, from the appropriation from the earmarked revenue fund, highway account, appropriation number 36719, operation and capital, three thousand dollars 3,000

Legislative Post Audit:

From the general fund for personal services, operation and capital, five thousand dollars 5,000

Board of Institutions:

For care of mentally retarded children residing at Warm Springs State Hospital, the Board of Institutions is authorized to transfer from general fund, appropriations available to Boulder River School and Hospital to Warm Springs State Hospital, an amount not to exceed three hundred and seventeen thousand dollars 317,000

Water Resources Board:

For payments to Bechtel Corporation there is hereby transferred to general fund appropriation number 75805 from general fund appropriation number 75816 the sum of fifty-five thousand dollars ($55,000) and from the appropriation from the earmarked revenue fund, water conservation account appropriation number 31602 there is hereby transferred forty-five thousand dollars ($45,000) to general fund appropriation number 75805.

Forty-first Legislative Assembly:

From the general fund for operation of the Forty-first Legislative Assembly 65,000

Section 2. This act is effective upon passage and approval.

Approved: March 17, 1969.

EXTRAORDINARY SESSION HOUSE BILL NO. 7

An Act to Appropriate Monies to Certain State Agencies for the Biennium Ending June 30, 1971.

HeinOnline -- 1969 vol. II 1271 1969

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. For the purposes of this act, unless otherwise stated:

(1) The term "operation" means all ordinary and necessary expenditures for operation of the agency to which the appropriation applies, and repairs and maintenance, but does not include personal services.

(2) The term "personal services" means all salaries and wages of full-time, part-time, and temporary employees of the state and includes the state's contribution for social security, employees' retirement, industrial accident insurance, and any authorized health insurance. Employees' annual salary increases for the fiscal year ending June 30, 1970 shall not exceed five percent (5%) of the annual salary received during the fiscal year ending June 30, 1969, unless promoted to a position with additional responsibilities, duties, or both. Employees' annual salary increases for the fiscal year ending June 30, 1971 shall not exceed five percent (5%) of the annual salary received during the fiscal year ending June 30, 1970, unless promoted to a position with additional responsibility, duties, or both.

(3) The term "repairs and maintenance" means repairs to equipment and the cost of replacing parts of equipment, repairs to buildings and to the plumbing, heating, wiring and air-conditioning systems in buildings, occasioned by ordinary wear and tear or by physical damage, and the cost of painting the exteriors and interiors of buildings. Major alterations of existing buildings are capital expenditures and are not repairs and maintenance.

(4) The term "capital" means those items which do not lose their identity, which are adaptable to continuing use and have a useful life of more than one (1) year. Capital shall include the replacement of existing capital assets, as well as new acquisitions, but does not include expenditures for the construction, improvement, betterment, or furnishing of buildings, structures, or purchase of buildings or land unless specifically authorized.

(5) The term "grants and benefits" means expenditures for grants to political subdivisions, associations, or individuals, and includes, but is not limited to retirement and disability compensation, and unemployment benefits.

(6) The term "approved budget amendment" means approval of a request by the governor submitted to him through the budget director. An informational copy of each request for a budget amendment shall be filed with the legislative fiscal analyst.

HeinOnline -- 1969 vol. II 1272 1969

Section 2. (1) The appropriations contained in this act are intended to provide only necessary and ordinary expenditures for the year for which the appropriations were made. The unexpended balance of any appropriation shall revert to the fund from which it was appropriated at the end of each fiscal year, except amounts encumbered by purchase order. However, in case of necessity, an appropriation not expended during the first fiscal year of the biennium may be expended during the second fiscal year if authorized by the governor by an approved budget amendment.

(2) It shall be unlawful to purchase any article or service for a succeeding biennium with an appropriation contained in this act.

(3) Any monies appropriated for budgeted positions that are not filled shall revert to the fund from which appropriated.

Section 3. Unless otherwise provided in this act, all monies received or collected from any source whatsoever by the agencies, boards, or institutions named in this act shall be deposited in the state treasury and credited to the proper fund.

Section 4. The salary of the chief administrator of each agency, commission, board or institution shall be determined by the appointing authority in accordance with the statutory provisions and, in no case, shall the salary determined exceed the amounts set out in this act for the agency.

Section 5. In addition to the appropriations contained in this act, all other monies received from all other sources may be made available by an approved budget amendment.

Section 6. No state officer, department, board, agency, commission, or institution shall establish new programs or expand existing programs beyond the scope of the programs already established, recognized and approved by the legislature in the review of the 1971 biennial budget, until such program and the method of financing shall be presented to the governor through the budget director, for approval.

Section 7. Where the operation of an office, department, board, agency, commission, or institution is financed by an appropriation or appropriations from the general fund as well as by funds from other sources, the portion provided by appropriation from the general fund shall be decreased to the extent that the receipt of the funds from other sources approved by the legislature in the review of the 1971 biennial budget are exceeded, provided that:

(1) Such decrease shall not jeopardize the receipt of such funds to be received from other sources; and

HeinOnline -- 1969 vol. II 1273 1969

(2) This section shall not apply to any fund if such excess receipts are to be expended for a purpose or purposes approved by the governor, upon a request submitted to him, through the budget director.

Section 8. The following monies are appropriated for the biennium ending June 30, 1971:

	For the Fiscal Year Ending June 30, 1970	For the Fiscal Year Ending June 30, 1971
ADJUSTED COMPENSATION DIVISION		
(1) From the earmarked revenue fund, war veterans' compensation administrative account for:		
(a) personal services	$ 2,310	
(b) operation	500	
BOARD OF EQUALIZATION		
(1) From the general fund for:		
(a) personal services	665,581	$698,308
(b) operation and capital	104,334	87,753
(c) sales ratio study	40,000	40,000
(d) multistate tax compact including costs of joint audits	8,000	8,000
(2) From the earmarked revenue fund:		
(a) highway account for personal services	139,764	146,768
(b) highway account for operation and capital	52,239	52,120
(c) state equalization aid account for operation	181,676	181,098
(d) aeronautics commission account for operation	5,000	5,000
(3) The amount of $2,000 is hereby appropriated from the earmarked revenue fund, highway account to the revolving fund, board of equalization ac-		

HeinOnline -- 1969 vol. II 1274 1969

count. From the revolving fund, board of equalization account there is appropriated all income from reimbursable expenditures for audits of motor fuel producers, dealers and users. Any balance remaining in this account at the end of the biennium shall revert to the account from which the appropriation was made.

(4) The salaries of the members of the board shall not exceed $11,130 for the fiscal year ending June 30, 1970; and $11,687 for the fiscal year ending June 30, 1971. The chairman of the board shall receive $500 each year in addition to his regular salary.

BOARD OF EXAMINERS

(1) From the general fund for:

(a) personal services	50,448	52,970
(b) operation and capital	6,200	7,050
(c) extradition and transportation of prisoners	55,000	55,000
(d) repair and maintenance of the roll call equipment in the house of representatives	1,500	1,500
(e) repair and maintenance of the roll call equipment in the senate	7,500	7,500
(f) maintenance of house of representatives and senate sound systems		1,500
(g) fire and casualty insurance premiums on state property	155,000	163,000
(h) contracted services to Montana veterans, their widows and orphans, on claims before the Veterans' Administration of the United States	6,000	6,000

HeinOnline -- 1969 vol. II 1275 1969

(2) From the earmarked revenue fund for fire and casualty insurance premiums on state property from:		
(a) university millage account	185,000	220,000
(b) highway account	45,000	46,000
(3) The head of this agency shall not receive a salary in excess of $10,028 for the fiscal year ending June 30, 1970; and $10,529 for the fiscal year ending June 30, 1971.		
(4) From the general fund for personal services, operation and capital of the constitution revision commission created by Senate Bill No. 111 of the Forty-first Legislative Assembly for the biennium ending June 30, 1971. The provisions of section 2 of this act shall not apply to the appropriation made by this subsection.	15,000	35,000
LAW LIBRARY		
(1) From the general fund for:		
(a) personal services	12,975	13,422
(b) operation and capital	15,410	15,410
(2) The head of this agency shall not receive a salary in excess of $8,352 for the fiscal year ending June 30, 1970; and $8,760 for the fiscal year ending June 30, 1971.		
LIBRARY COMMISSION		
(1) From the general fund for:		
(a) personal services	94,677	99,410
(b) operation and capital	62,823	62,190
(2) From the federal and private revenue fund, library commission account for:		
(a) operation, capital, and personal services	121,675	131,225

HeinOnline -- 1969 vol. II 1276 1969

(3) Federal grants as authorized by the Congress of the United States through the Library Services and Construction Act are hereby appropriated.

(4) The salary for the state librarian shall not exceed $12,000 for the fiscal year ending June 30, 1970; and $12,500 for the fiscal year ending June 30, 1971.

JOINT MERIT SYSTEM

(1) From the earmarked revenue fund, joint merit system account for:

(a) personal services	41,880	48,751
(b) operation and capital	9,390	9,865

BOARD OF HAIL INSURANCE

(1) From the earmarked revenue fund, hail insurance administration account for:

(a) personal services	32,504	34,239
(b) operation and capital	14,850	14,400

(2) The head of this agency shall not receive a salary in excess of $9,204 for the fiscal year ending June 30, 1970; and $9,708 for the fiscal year ending June 30, 1971.

OIL AND GAS CONSERVATION COMMISSION

(1) From the earmarked revenue fund, oil and gas conservation account for:

(a) personal services	159,386	164,285
(b) operation and capital	86,241	75,821

(2) The head of this agency shall not receive a salary in excess of $12,600 for the fiscal year ending June 30, 1970; and $13,230 for the fiscal year ending June 30, 1971.

HeinOnline -- 1969 vol. II 1277 1969

INDUSTRIAL ACCIDENT BOARD

(1) From the general fund for:		
(a) silicosis program for personal services	5,587	5,885
(b) silicosis program for operation	6,925	6,200
(c) silicosis program for grants and benefits	703,920	653,520
(2) From the earmarked revenue fund:		
(a) industrial accident administration account for personal services	446,393	468,438
(b) industrial accident administration account for operation and capital	295,618	276,959
(c) such monies as may be needed from the volunteer firemen's compensation account for grants and benefits.		
(3) The head of this agency shall not receive a salary in excess of $14,000 for the fiscal year ending June 30, 1970; and $14,000 for the fiscal year ending June 30, 1971, and shall be paid from the earmarked revenue fund, industrial accident administration account.		

GRASS CONSERVATION COMMISSION

(1) From the earmarked revenue fund, grass conservation account for:		
(a) personal services	9,628	10,212
(b) operation	5,700	5,700
(2) The head of this agency shall not receive a salary in excess of $8,500 for the fiscal year ending June 30, 1970; and $8,925 for the fiscal year ending June 30, 1971.		

PUBLIC EMPLOYEES' RETIREMENT SYSTEM

(1) From the earmarked revenue fund:

HeinOnline -- 1969 vol. II 1278 1969

(a) public employees' retirement system account for personal services	85,050	89,300
(b) public employees' retirement system account for operation and capital	58,373	58,788
(c) social security account for personal services	33,664	35,347
(d) social security account for operation and capital	25,969	19,475

(2) From the earmarked revenue fund, judges' retirement account:

(a) Montana Judges' Retirement Board for administration of same	1,100	1,100

(3) The head of this agency shall not receive a salary in excess of $13,800 for the fiscal year ending June 30, 1970; and $13,800 for the fiscal year ending June 30, 1971, and shall be paid one-half by the public employees' retirement system account and one-half by the social security account.

TEACHERS' RETIREMENT SYSTEM

(1) From the earmarked revenue fund, teachers' retirement account for:

(a) personal services	57,396	60,190
(b) operation and capital	105,950	47,080

(2) The head of this agency shall not receive a salary in excess of $13,800 for the fiscal year ending June 30, 1970; and $13,800 for the fiscal year ending June 30, 1971.

VETERANS' WELFARE COMMISSION

(1) From the general fund for:

(a) personal services	124,750	131,100
(b) operation and capital	30,970	30,825

HeinOnline -- 1969 vol. II 1279 1969

(2) The head of this agency shall not receive a salary in excess of $9,240 for the fiscal year ending June 30, 1970; and $9,700 for the fiscal year ending June 30, 1971.

(3) No part of the appropriation to the Veteran's Welfare Commission shall be used for any expenses in connection with out-of-state travel, when such expenses are otherwise reimbursed.

BOARD OF HEALTH

(1) From the general fund for:

(a) personal services, operation and capital 797,256 779,348

(b) regulation of transient lodging space and accommodations, all fees collected for such purposes are hereby appropriated.

(2) From the federal and private revenue fund:

(a) public health account for personal services, operation and capital..1,496,116 1,589,832

(b) heart and chest x-ray survey account for personal services, operation and capital 39,793 40,623

(3) From the general fund for alcohol and drug dependence control for personal services, operation and capital 12,000 12,000

(a) In lieu of reimbursement for expenses as provided by section 69-5215, R.C.M. 1947, members of the hospital and long-term care facility advisory council may receive twenty dollars ($20) per day for each meeting day and for each day spent on business of the council plus reimbursement for actual and necessary expenses

HeinOnline -- 1969 vol. II 1280 1969

from the general fund of the Board of Health.

(4) From the board of examiners for nursing home administrators special account for:

(a) operation and capital in an amount sufficient to pay all administrative expenses.

(5) The salary for the executive officer of this board shall not exceed $22,050 for the fiscal year ending June 30, 1970; and $23,150 for the fiscal year ending June 30, 1971.

DISTRICT JUDGES

(1) From the general fund for:

(a) personal services	585,808	586,245
(b) operation	39,000	39,000

MILK CONTROL BOARD

(1) From the earmarked revenue fund, milk control account for:

(a) personal services	76,457	80,280
(b) operation and capital	43,610	43,610

(2) The head of this agency shall not receive a salary in excess of $10,700 for the fiscal year ending June 30, 1970; and $11,000 for the fiscal year ending June 30, 1971.

(3) The chief clerk of this agency shall not receive a salary in excess of $8,190 for the fiscal year ending June 30, 1970; and $8,600 for the fiscal year ending June 30, 1971.

FISH AND GAME COMMISSION

(1) From the general fund for:

(a) personal services, operation and capital	150,000	150,000

HeinOnline -- 1969 vol. II 1281 1969

(2) From the earmarked revenue fund, account No. 213100, fish and game account for:		
(a) personal services, operation, capital, grants and benefits	3,363,430	3,717,039
(b) payment of Link Brothers' contract at Lewis & Clark Caverns	15,000	15,000
(3) From the federal and private revenue fund, Canyon Ferry-Tiber Account for operation, land acquisition, land improvements and capital, at state parks, recreation areas and monuments, account No. 418600	415,859	415,856
(4) From Clark Canyon—Canyon Ferry lease revenue account for operation and capital	12,000	12,000
(5) From the federal and private revenue fund, fish and game account No. 410522	1,050,000	1,150,000
(6) From the earmarked revenue fund, state parks account for personal services, operation and capital account No. 220500	105,000	105,000
(7) The salary of the deputy director of the fish and game commission shall not exceed $15,496 for the fiscal year ending June 30, 1970; and $16,164 for the fiscal year ending June 30, 1971.		
(8) The salary of the director of the fish and game commission shall not exceed $17,580 for the fiscal year ending June 30, 1970; and $18,456 for the fiscal year ending June 30, 1971.		
DEPARTMENT OF LABOR AND INDUSTRY		
(1) From the general fund for:		
(a) personal services	48,500	50,400
(b) operation and capital	15,450	13,700

HeinOnline -- 1969 vol. II 1282 1969

(2) The salary of the commissioner of labor shall not exceed $10,500 for the fiscal year ending June 30, 1970; and $10,500 for the fiscal year ending June 30, 1971.

(3) The salary of the director of the apprenticeship council shall not exceed $9,471 for the fiscal year ending June 30, 1970; and $9,902 for the fiscal year ending June 30, 1971.

AERONAUTICS COMMISSION

(1) From the earmarked revenue fund, aeronautics commission account for:		
(a) personal services	186,533	194,631
(b) operation and capital	231,090	214,940
(c) engineering grants	5,000	5,000
(d) state airport construction, maintenance, and repair, as authorized by law, including state airport land purchases	50,000	50,000
(e) as much as may be necessary for construction loans. Every municipality is authorized to accept, receive, receipt for, disburse and expend such state monies made available for such state loans. All state monies accepted by a municipality shall be accepted and expended by such municipality upon such terms and conditions as are prescribed by the state. The term "municipalities" as used herein shall have the meaning given to such term by the Municipal Airports Act (section 1-808, R.C.M. 1947).	194,000	193,000
(2) From the revolving fund, aeronautics commission account for:		
(a) state airport personal services, operation and capital	42,282	47,450

HeinOnline -- 1969 vol. II 1283 1969

(3) From the federal and private grant clearance fund, aeronautics commission account, all monies appropriated by federal government for specific airport projects.

(4) The head of this agency shall not receive a salary in excess of $14,244 for the fiscal year ending June 30, 1970; and $15,000 for the fiscal year ending June 30, 1971.

STATE FORESTER

(1) From the general fund for:

(a) personal services, operation and capital	644,041	669,470

(2) From the earmarked revenue fund for personal services, operation and capital:

(a) slash and brush disposal account	225,358	234,124
(b) timber stand improvement account	69,800	69,800
(c) forester's nursery account	40,900	37,000

(3) From the federal and private revenue fund for personal services, operation and capital:

(a) Clark-McNary account	113,500	113,500
(b) cooperative forest management account	45,500	45,500

(4) The salary for the state forester shall not exceed $13,965 for the fiscal year ending June 30, 1970; and $15,000 for the fiscal year ending June 30, 1971.

COORDINATOR OF INDIAN AFFAIRS

(1) From the general fund for:

(a) personal services	16,216	17,061
(b) operation and capital	6,216	6,381

(2) The salary of the coordinator shall not

HeinOnline -- 1969 vol. II 1284 1969

exceed $9,708 for the fiscal year ending June 30, 1970; and $10,293 for the fiscal year ending June 30, 1971.

OFFICE OF ECONOMIC OPPORTUNITY

(1) From the general fund for:		
(a) personal services, operation and capital	4,500	4,650
(2) From the federal and private revenue fund, O.E.O. coordinator account for:		
(a) personal services, operation and capital	30,450	31,100

DEPARTMENT OF LANDS AND INVESTMENTS

(1) From the general fund for payment to counties authorized by section 81-1118, R.C.M. 1947, for grants and benefits ..	133,000	133,000

REVISED CODES OF MONTANA

(1) From the general fund for purchase of replacement volumes and cumulative pocket supplements of the Revised Codes of Montana, 1947	29,375	

HIGHWAY TRAFFIC SAFETY DEPARTMENT

(1) From the earmarked revenue fund, highway account for:		
(a) personal services	7,750	7,912
(b) operation and capital	17,750	7,913
(2) From the federal and private revenue fund, traffic safety account for:		
(a) personal services	18,900	20,288
(b) operation and capital	1,100	687

(3) The salary of the director shall not exceed $10,500 for the fiscal year end-

HeinOnline -- 1969 vol. II 1285 1969

ing June 30, 1970; and $11,025 for the fiscal year ending June 30, 1971.

COUNTY PRINTING COMMISSION		
(1) From the general fund	1,000	1,000
MONTANA BUREAU OF MINES AND GEOLOGY		
(1) From the general fund, matching funds to the extent needed, for federal money available for a research and economic study of Montana coal to determine its anti-pollution value for use in industry	50,000	
COLLECTION AGENCY BOARD		
(1) From the earmarked revenue fund, collection agency for:		
(a) operation and capital in an amount sufficient to pay all legal and necessary claims.		

Section 9. This act shall become effective to those public officers in this act whose term began on or subsequent to January 6, 1969, however, such designated salaries in this act shall become effective on July 1, 1969.

Approved: March 19, 1969.

EXTRAORDINARY SESSION HOUSE BILL NO. 9

An Act to Appropriate Monies to the State Highway Commission for the Biennium Ending June 30, 1971.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. For the purposes of this act, unless otherwise stated:

(1) The term "operation" means all ordinary and necessary expenditures for operation of the state highway commission and repairs and maintenance, but does not include personal services.

(2) The term "personal services" means all salaries and wages of full-time, part-time, and temporary employees of the state and includes the state's contribution for social security, employees'

HeinOnline -- 1969 vol. II 1286 1969

retirement, industrial accident insurance, and any authorized health insurance. Employees' annual salary increases for the fiscal year ending June 30, 1970, shall not exceed five percent (5%) of the annual salary rate received as of June 30, 1969, unless promoted to a position with additional responsibility, duties, or both. Under board approval salaries may be adjusted to be competitive. Employees' annual salary increases for the fiscal year ending June 30, 1971, shall not exceed five percent (5%) of the annual salary rate received as of June 30, 1970, unless promoted to a position with additional responsibility, duties, or both. Under board approval salaries may be adjusted to be competitive.

(3) The term "repairs and maintenance" means repairs to equipment and cost of replacing parts of equipment, repairs to buildings and to the plumbing, heating, wiring and air-conditioning systems in buildings, occasioned by ordinary wear and tear or by physical damage, and the cost of painting the exteriors and interiors of buildings. Major alterations of existing buildings are capital expenditures and are not repairs and maintenance.

(4) The term "capital" means those items which do not lose their identity, which are adaptable to continuing use and have a useful life of more than one (1) year. Capital shall include the replacement of existing capital assets, as well as new acquisitions, but does not include expenditures for the construction, improvement, betterment, or furnishing of buildings, structures, or purchase of buildings or land unless specifically authorized.

(5) The term "grants and benefits" means expenditures for grants to political subdivisions, associations, or individuals.

(6) The term "approved budget amendment" means approval of a request by the governor submitted to him through the budget director. An informational copy of each request for a budget amendment shall be filed with the legislative fiscal analyst.

Section 2. (1) The appropriations contained in this act are intended to provide only necessary and ordinary expenditures for the year for which the appropriations were made. The unexpended balance of any appropriation shall revert to the fund from which it was appropriated at the end of each fiscal year, except amounts encumbered by purchase order. However, in case of necessity, an appropriation not expended during the first fiscal year of the biennium may be expended during the second fiscal year if authorized by the governor by an approved budget amendment.

(2) It shall be unlawful to purchase any article or service for a succeeding biennium with an appropriation contained in this act.

HeinOnline -- 1969 vol. II 1287 1969

(3) Any monies appropriated for budgeted positions that are not filled shall not be used for salary increases but shall revert to the fund from which appropriated.

Section 3. Unless otherwise provided in this act, all monies received or collected from any source whatsoever by the state highway commission shall be deposited in the state treasury and credited to the proper fund.

Section 4. The salary of the chief administrator of the state highway commission shall be determined by the appointing authority in accordance with the statutory provisions and, in no case, shall the salary determined exceed the amounts set out in this act for the agency.

Section 5. In addition to the appropriations contained in this act, all other monies received from all other sources may be made available by an approved budget amendment.

Section 6. The state highway commission shall not establish new programs or expand existing programs beyond the scope of the programs already established, recognized and approved by the legislature in the review of the 1971 biennial budget, until such program and the method of financing shall be presented to the governor through the budget director, for approval.

Section 7. The following monies are appropriated for the biennium ending June 30, 1971:

	For the Fiscal Year Ending June 30, 1970	For the Fiscal Year Ending June 30, 1971
MONTANA HIGHWAY COMMISSION		
(1) From the Earmarked Revenue Fund, State Highway Account for:		
(a) personal services	$10,679,193	$11,445,241
(b) operation and capital	18,994,193	21,543,140
(c) grants and benefits—aid to cities and counties	3,000,000	3,000,000
(2) From the Federal and Private Revenue Fund, State Highway Account for:		
(a) personal services	10,772,593	12,091,456

HeinOnline -- 1969 vol. II 1288 1969

(b) operation and capital	60,715,550	74,961,064
(3) From the Earmarked Revenue Fund, State Highway Account for the advertising program:		
(a) personal services	40,560	42,643
(b) operation and capital	309,440	307,357

(4) From the Revolving Fund: The amount of $250,000 is appropriated from the Earmarked Revenue Fund, State Highway Account to establish a Revolving Fund, State Highway Account, to cover all reimbursable expenditures. Any balance remaining in the revolving fund, highway account, at the end of the biennium shall revert to the fund from which it was appropriated.

(5) Any funds available to the Montana Highway Commission for distribution to cities and counties under section 84-1840, R.C.M. 1947, which are unexpended during the biennium ending June 30, 1969, are hereby reappropriated to the biennium ending June 30, 1971. The provisions of section 2 relating to annual reversions shall not apply to appropriations made under section 84-1840, aid to cities and counties.

(6) The salary of the state highway engineer shall not exceed $19,110 for the fiscal year ending June 30, 1970; and $20,065 for the fiscal year ending June 30, 1971.

(7) The amount of $250,000 is appropriated from the Earmarked Revenue Fund, State Highway, to establish a Revolving Fund, State Highway Account, Motor Vehicle Pool, to cover all reimbursable expenditures in con-

HeinOnline -- 1969 vol. II 1289 1969

nection with the statewide Motor Vehicle Pool. Any balance remaining in the Revolving Fund, State Highway Account, Motor Vehicle Pool, at the end of the biennium shall revert to the fund from which it was appropriated.

Approved: March 17, 1969.

HeinOnline -- 1969 vol. II 1290 1969

CHANGES OF NAMES DECREED IN 1967-1968

Date of Judgment	Original Name	Name Decreed	Residence
Jan. 6, 1967	Craig Lee Daubert	Craig Lee Barth	Billings
Feb. 6, 1967	William A. Lasater	William L. Kline	Glasgow
Feb. 17, 1967	Frank Berresford Scrogham	Frank Berre Holthues	Billings
Feb. 17, 1967	Robert Michael Kilburn	Michael Robert Blahnik	Hamilton
Feb. 17, 1967	John Dee Kilburn	John Dennis Blahnik	Hamilton
Mar. 9, 1967	Daniel Darrell Marshall	Daniel Darrell Heimbigner	Chester
Mar. 9, 1967	Alvin Lee Birdinground	Alvin Lee Not Afraid	Big Horn County
Mar. 10, 1967	Gertrude Marieta (Trudi) West	Gertrude Marieta (Trudi) Engebretson	Miles City
Mar. 13, 1967	Thomas Leon Nix	Thomas Leon Mix	Cascade County
Mar. 16, 1967	Duane Francois Brasseur	Duane Francois Basseur	Missoula
Mar. 16, 1967	Georgia Mae Brasseur	Georgia Mae Basseur	Missoula
Mar. 20, 1967	Shawn Dennis Barnett	Sean Dennis Barnett	Missoula
Mar. 21, 1967	David Ray Armijo	David Ray Sell	Glasgow (AFB)
Mar. 21, 1967	Charles Robert Armijo	Charles Robert Sell	Glasgow (AFB)
Mar. 24, 1967	Eldon Raye Schmidtgall	Eldon S. Raye	Billings
Mar. 30, 1967	Gertrude Vienna Turpin	Gertrude Vienna Rusk	Deer Lodge
Apr. 3, 1967	Martin Crowder	Martin Paul Mann	Glendive
Apr. 4, 1967	Roger Allen Glotfelty	Roger Allen Enseliet	Cascade County
Apr. 4, 1967	James Cornel Bigcrane	James Cornel Matthew	Glasgow (AFB)
Apr. 10, 1967	Ida Roseann Stidham	Ida Roseann Hills	Butte
Apr. 10, 1967	James Lee Stidham	James Lee Hills	Butte
Apr. 11, 1967	Larry Gordon Gilchrist	Larry Gordon Correll	Glendive
Apr. 11, 1967	Lexie Gaye Gilchrist	Lexie Gaye Correll	Glendive
Apr. 19, 1967	Joseph Lawrence LaRocque	Larry Sequist LaRocque	Cascade County
Apr. 20, 1967	Gerald Richard Crum	Gerald Richard Crum Backen	Libby
Apr. 24, 1967	John Leslie Flynn	John Leslie Lulf	Glasgow
May 3, 1967	Judith Ann Mangiaracina	Judith Ann Bouler	Cascade County
May 15, 1967	Mark Richard Siewing, Jr.	Mark Richard Linn	Bozeman
May 19, 1967	Dorothy M. Botnen	Dorothy M. Larson	Miles City
June 1, 1967	Nadine Faye Nelson	Nadine Faye Bolinger	Big Horn County
June 1, 1967	William Edward Follett	William Edward Bolinger	Big Horn County
June 7, 1967	Pauline Hereim	Pauline Davies	Malta
June 7, 1967	Karyl Dean Kirkaldie	Karole Dean Overberg	Dodson
June 9, 1967	Patrick Eugene Reardon	Patrick Eugene Duncan	Butte
June 21, 1967	Margarita Llanos Rodriguez	Margarita Llanos Zuniga	Cascade County
June 23, 1967	Dominic Linell	Dominic Giardina	Havre
June 29, 1967	Marrion Frances Rickard	Otto Weisser	Big Horn County
June 29, 1967	Tommy Joseph Woods	Tommy Joseph Moore	Cascade County
June 29, 1967	Alice Jennet Rose	Vergyle Jeannette Rose	Missoula
July 6, 1967	Kenny Lee Olson	Kenny Lee Reimche	Glasgow
July 7, 1967	Byron Emmett Butt	Byron Emmett Mazurek	Helena
July 10, 1967	Gerald Lee Cox	Gerald Lee Lewis	Bozeman
July 12, 1967	David Arnold Olk	David Arnold Ballard	Jefferson County
Aug. 1, 1967	Douglas Arthur Engle	Douglas Arthur Landru	Fergus
Aug. 1, 1967	Deborah Lee Engle	Deborah Lee Landru	Fergus
Aug. 11, 1967	Ronald Douglas Burns	Ronald Douglas Groshelle	Billings
Aug. 14, 1967	Patricia Irene Hawley	Patricia Irene McQuire	Cascade County
Aug. 15, 1967	James Edward Buckner	James Ennis Rude	Park City
Aug. 18, 1967	Mary Anne Frankovich	Mary Anne Frank	Billings
Aug. 21, 1967	Bruce Ted Skinner	Bruce Harris Keithler	Billings
Aug. 21, 1967	Wanda Irene Miller	Wanda Irene Ellis	Glasgow
Aug. 21, 1967	Phillip Aaron Crazy Bull	Phillip Aaron Cummins	Wolf Point
Aug. 22, 1967	Jacob C. Weber	Jacob C. Rhodes	Flathead County
Aug. 23, 1967	Ralph Leon Jones	Ralph Leon Frasure	Cascade County
Aug. 23, 1967	Randall Brent Jones	Randall Brent Frasure	Cascade County
Sept. 1, 1967	Stanley Dale Robinson	Stanley Dale Farnham	Havre
Sept. 5, 1967	Michael Edward Dermott	Michael Edward Webster	Roy

HeinOnline -- 1969 vol. II 1291 1969

CHANGES OF NAMES DECREED IN 1967-1968

Date of Judgment	Original Name	Name Decreed	Residence
Sept. 8, 1967	Terry Scott Parent	Terry Scott Wicka	Cascade County
Sept. 15, 1967	Oliver David Oliver	Harold David Oliver	Billings
Sept. 18, 1967	Thomas James Rathbun	Jay David Anderson	Glendive
Sept. 18, 1967	Tana Gay Rathbun	Tana Gay Anderson	Glendive
Sept. 22, 1967	Robert Wayne Olson	Robert Wayne Reopelle	Butte
Sept. 22, 1967	Thomas Patrick Olson	Thomas Patrick Reopelle	Butte
Sept. 26, 1967	Walter James Laukeman, Jr.	Walter James Worthington	Flathead County
Oct. 5, 1967	Paul C. Isaacs	Paul F. Isaacs	Missoula
Oct. 6, 1967	Clara Mae Ledoux Poupa	Bonnie Gean Ledoux Poupa	Pendroy
Oct. 11, 1967	George Leo Corrigeux, Jr.	George Leo Kutt	Cut Bank
Oct. 11, 1967	Betty Jane Corrigeux	Betty Jane Kutt	Cut Bank
Oct. 11, 1967	Michael Lee Corrigeux	Michael Lee Kutt	Cut Bank
Oct. 11, 1967	Debra Lynn Corrigeux	Debra Lynn Kutt	Cut Bank
Oct. 16, 1967	Harold Lewis Lund	Harold Lewis Beck	Missoula
Oct. 18, 1967	Berniece Smith	Berniece Grabofsky	Nashua
Oct. 18, 1967	Dora Neuhardt	Dora Morton	Billings
Oct. 19, 1967	Richard Patrick Wallick	Paul Charles Wallick	Miles City
Oct. 20, 1967	Richard Albert Barton	Richard Albert Cary	Helena
Oct. 20, 1967	Johanne Marie Elise Barton	Johanne Marie Elise Cary	Helena
Oct. 20, 1967	Christine Barton	Christine Cary	Helena
Oct. 20, 1967	Claudene Elisabeth Barton	Claudene Elisabeth Cary	Helena
Oct. 24, 1967	Dallas Gerald Manley	Dallas Gerald O'Connor	Wolf Point
Oct. 31, 1967	Jack Leroy Ayers	Jack Leroy Peterson	Flathead County
Nov. 3, 1967	Florence Irene Morris	Florence Irene Leland Erickson	Corvallis
Nov. 6, 1967	Kim Sherene Scott	Kim Sherene Minyard	Cascade County
Nov. 6, 1967	Kellie Lynne Scott	Kellie Lynne Minyard	Cascade County
Nov. 14, 1967	Steven Lewis Stenerson	Steven Lewis O'Hern	Townsend
Nov. 14, 1967	Clifton Clarence Stenerson	Clifton Clarence O'Hern	Townsend
Nov. 14, 1967	David Roger Stenerson	David Roger O'Hern	Townsend
Nov. 15, 1967	David Victor Neidhart	David Victor Weitzel	Butte
Nov. 16, 1967	Ricky Allen Kantos	Richard Allen Salcido	Missoula
Nov. 30, 1967	Michelle M. Williams	Michelle M. Wilkerson	Miles City
Dec. 6, 1967	Cesar Melendez Garcia	Cesar Melendez	Cascade County
Dec. 8, 1967	Roland Burd Blackburn	Roland Burd Herndon	Townsend
Dec. 11, 1967	Marilyn Joyce Lahd	Marilyn Joyce Myers	Missoula
Dec. 14, 1967	Edwin Douglas Zinck	Douglas Earl Croft	Missoula
Dec. 15, 1967	Ronald Anthony Michelich	Ronald Anthony Webster	Butte
Dec. 15, 1967	Jack Arthur Webster	Jack Arthur Condrey	Butte
Dec. 18, 1967	Dennis Richard Wellner	Dennis Richard McInteer	Billings
Dec. 19, 1967	Michael Duane Luce	Michael Duane Hampson	Superior
Dec. 27, 1967	Janet M. Boyle	Janet M. Smollack	Anaconda
Dec. 29, 1967	Robert Dean Casey	Robert Dean Freeman	Butte
Jan. 2, 1968	MacErvin Ernest Anderson	Mickey Ernest Anderson	Yellowstone County
Jan. 8, 1968	Robert Edmond Gonsioroski	Robert Edmond Gonsior	Kalispell
Jan. 12, 1968	DeNora Marie Hanley	DeNora Marie Chambers	Kevin
Jan. 17, 1968	Gabriel Lynn Delaney	Penny Lynn Schultz	Cascade County
Jan. 31, 1968	Donald Robert Baker	Donald Robert Casey	Helena
Jan. 31, 1968	Allison L. Blank	Allison L. McBride	Dodson
Feb. 6, 1968	Eugene Richard Herrin	Eugene Richard Longmire	Helena
Feb. 14, 1968	Kathleen Mary Elbert	Kathleen Mary Elbert Beal	Yellowstone County
Feb. 14, 1968	Laura Lee Elbert	Laura Lee Elbert Beal	Yellowstone County
Feb. 14, 1968	Julie Anne Elbert	Julie Anne Elbert Beal	Yellowstone County
Feb. 16, 1968	John William Roggow	Jack William Moore	Helena
Feb. 19, 1968	Jack Edwin Brewster	Jack Edwin Lindell	Glendive
Feb. 19, 1968	Kenneth Corwin Munson	Kenneth Corwin Olbu	Missoula
Feb. 23, 1968	Sandra Irene Rummel	Sandra Irene Pauley	Helena
Feb. 29, 1968	Leonard E. Koch	Leonard E. Cook	Potomac

HeinOnline -- 1969 vol. II 1292 1969

CHANGES OF NAMES DECREED IN 1967-1968

Date of Judgment	Original Name	Name Decreed	Residence
Mar. 1, 1968	Violet Marie Reiter	Violet Marie Lueck	Miles City
Mar. 4, 1968	Georgelle Carleen Rocco	Georgelle Carleen Malloy	Butte
Mar. 8, 1968	Robert James Terribilini	Robert James Gruel	Yellowstone County
Mar. 8, 1968	Paul Andrew Terribilini	Paul Andrew Gruel	Yellowstone County
Mar. 15, 1968	Lucille Hagemeister	Lucille Garlington	Miles City
Mar. 20, 1968	Patrick Edward Gallagher	Patrick Edward Stanley	Judith Gap
Mar. 20, 1968	Kathleen Ann Gallagher	Kathleen Ann Stanley	Judith Gap
Mar. 20, 1968	Dennis Vincent Gallagher	Dennis Vincent Stanley	Judith Gap
Mar. 22, 1968	Pearl Annette Wostel	Ann Wostel	Helena
Mar. 22, 1968	Charles Albert Goss	Robert Goss	Anaconda
Mar. 25, 1968	Sally Georgia Klupp	Sally Georgia Grinsteiner	Yellowstone County
Mar. 29, 1968	Vicki Jean Lasater	Vicki Jean Kline	Glasgow
Apr. 5, 1968	Charles Scott Arthur	Charles Scott Forrest	Choteau
Apr. 18, 1968	Karen Marie Davis	Karen Marie Gallagher	Missoula
Apr. 18, 1968	Kevin Mikel Davis	Kevin Mikel Gallagher	Missoula
Apr. 18, 1968	Kathryn Mazie Davis	Kathryn Mazie Gallagher	Missoula
Apr. 18, 1968	Kristin Marian Davis	Kristin Marian Gallagher	Missoula
Apr. 18, 1968	Kelsa Maureen Davis	Kelsa Maureen Gallagher	Missoula
Apr. 24, 1968	Scott Allen Cox	Richard Allen Cox	Whitefish
Apr. 24, 1968	Mack Roger Kirkendoll	Mack Roger Wade	Great Falls
May 6, 1968	Richard Allen English	Richard Allen Houtchens	Helena
May 6, 1968	Michael Duane Sexton	Michael Duane Harp	Flathead County
May 15, 1968	Dale Martin Toupe	Dale Martin Ward	Lake County
May 16, 1968	Lorraine M. Ward	Lorraine M. Schefter	Miles City
May 22, 1968	Edward Wilson Earrings	Edward Wilson After Buffalo	Browning
May 28, 1968	Frederick Roy Sanders	Pete Roy Feller	Great Falls
May 28, 1968	Guinevive Olive Washburn	Marian Irene Quitt	Thompson Falls
June 5, 1968	Daniel Eugene Holmes	Daniel Eugene Bummer	Red Lodge
June 5, 1968	Troyce Felton Williams	Hoss Ensey	Yellowstone County
June 10, 1968	Irene Bartlett	Irene E. Morel	Miles City
June 11, 1968	Trevert Gene Rummel	Trevert Gene Kelly	Thompson Falls
June 12, 1968	Marlene Joan Kozlovsky	Marlene Susan Faught	Great Falls
June 13, 1968	Bobe Huseby	Bert Alfred Stenerson	Hardin
June 13, 1968	Mark Hans Holt	Hans Mark Holt	Missoula
June 14, 1968	Juasio Paz	Nash Paz	Yellowstone County
June 17, 1968	Barbara Joan Cutting	Barbara Joan Hoff	Bozeman
June 17, 1968	James Duncan Cutting	James Duncan Hoff	Bozeman
July 1, 1968	Marvin Neil Cinnamon	Marvin Neil Cameron	Dillon
July 1, 1968	Donna Maurine Cinnamon	Donna Maurine Cameron	Dillon
July 1, 1968	George Douglas Cinnamon	George Douglas Cameron	Dillon
July 1, 1968	Gregory Douglas Cinnamon	Gregory Douglas Cameron	Dillon
July 1, 1968	Julie Frances Cinnamon	Julie Frances Cameron	Dillon
July 1, 1968	Otha Burnetta (Bernice) Cole	Bernice Vaughn	Bozeman
July 3, 1968	Richard David McCormack	Richard David Scharler	Butte
July 3, 1968	Annis Arvelione Lockwood Pearson	Arvilene Avis Lockwood Pearson	Yellowstone County
July 10, 1968	Elsie Victoria Bishop	Elsie Victoria Boham	Great Falls
July 15, 1968	Toney Wayne Benson, Jr.	Tony Wayne Pease	Poplar
July 15, 1968	Toni Lee Benson	Toni Lee Pease	Poplar
July 15, 1968	Tina Lynn Benson	Tina Lynn Pease	Poplar
July 29, 1968	Tammy L. Whisenand	Tammy L. Kulczyk	Valley County
Aug. 8, 1968	Sandra Lee Stuenkel	Sandra Lee Schaefer	Browning
Aug. 9, 1968	Joan Maxine Loeffler	Joan Maxine McCracken	Ledger
Aug. 19, 1968	Loretta C. Bingham	Loretta C. Nelson	Miles City
Aug. 20, 1968	Charles Darrell Oakden	Charles Darrell Hatfield	Butte
Aug. 23, 1968	John Lyle Tauck	Lyle Hans Tauck	Carter County
Aug. 23, 1968	Dwain Raymond* Sewell	Dwain Raymond Mullins	Lincoln County
Aug. 29, 1968	Bruce Tyler Crain	Bruce Tyler Wontor	Missoula

HeinOnline -- 1969 vol. II 1293 1969

CHANGES OF NAMES DECREED IN 1967-1968

Date of Judgment	Original Name	Name Decreed	Residence
Aug. 29, 1968	Gregory O. Engdahl	Gregory O. Sweetser	Helena
Aug. 30, 1968	Cheryl Ann Luther	Cheryl Ann Hoffman	Yellowstone County
Sept. 3, 1968	Sharon Jean Naylor	Sharon Jean Winegar	Kalispell
Sept. 3, 1968	James Leon Naylor	James Leon Winegar	Kalispell
Sept. 3, 1968	John Wayne Naylor	John Wayne Winegar	Kalispell
Sept. 11, 1968	Frederick Russell Reed	Frederick Russell Alverson	Great Falls
Sept. 11, 1968	Judith Ann Reed	Judith Ann Alverson	Great Falls
Sept. 11, 1968	Tracy Lynn Reed	Tracy Lynn Alverson	Great Falls
Sept. 11, 1968	Russell Daniel Reed	Russell Daniel Alverson	Great Falls
Sept. 11, 1968	Dennis Gene Reed	Dennis Gene Alverson	Great Falls
Sept. 11, 1968	Leona Marion Schwartz	Pat Leona Tryon	Yellowstone County
Sept. 12, 1968	Judith A. Lanning	Judith A. McKeever	Miles City
Sept. 17, 1968	Thomas Steven Armstrong	Thomas Steven Gould	Gardiner
Sept. 26, 1968	Harry John Ramey	Rocky Harry John Ramey	Columbia Falls
Oct. 10, 1968	Anna Johnson Fox	Blanche Ramona Fox	Missoula
Oct. 15, 1968	Osman C. VanMetre	Joe VanMetre	Lewistown
Oct. 21, 1968	Elijah Walkings	Elijah Chase	Glasgow
Oct. 21, 1968	Marie Walkings	Marie Chase	Glasgow
Oct. 21, 1968	Vernon James Walkings	Vernon James Chase	Glasgow
Oct. 21, 1968	Norman Michael Walkings	Norman Michael Chase	Glasgow
Oct. 21, 1968	Richard Allen Walkings	Richard Allen Chase	Glasgow
Oct. 21, 1968	Cheryl Ann Walkings	Cheryl Ann Chase	Glasgow
Oct. 21, 1968	Janice Mae Walkings	Janice Mae Chase	Glasgow
Oct. 22, 1968	Roland John Wheeler	Roland John Bragg	Livingston
Oct. 30, 1968	Mary Dietz	Mary McGuire	Helena
Nov. 6, 1968	Shaulee Teresa Crawford	Shaulee Teresa Surratt	Great Falls
Nov. 6, 1968	Nancy Lotton	Nancy Goldberg	Havre
Nov. 6, 1968	Kenneth Sander Madslangrud	Kenneth Sander Rude	Great Falls
Nov. 6, 1968	Edrie Dorene Madslangrud	Edrie Dorene Rude	Great Falls
Nov. 6, 1968	Marcie Kay Madslangrud	Marcie Kay Rude	Great Falls
Nov. 6, 1968	Keith Allen Madslangrud	Keith Allen Rude	Great Falls
Nov. 6, 1968	Kurt Michael Madslangrud	Kurt Michael Rude	Great Falls
Nov. 6, 1968	Brad Eugene Madslangrud	Brad Eugene Rude	Great Falls
Nov. 7, 1968	Arthur Edison Lincoln	Arthur Edison Groshong	Missoula
Nov. 8, 1968	Randy Matthew Campbell	Randy Lee Goins	Yellowstone County
Nov. 12, 1968	Albert George Christensen	Albert George Larive	Park County
Nov. 15, 1968	Robert August Jermann	Robert August Thomas	Stevensville
Nov. 15, 1968	Jerry Edward Jermann	Jerry Edward Thomas	Stevensville
Nov. 20, 1968	Sheila Diane Cartright	Sheila Diane Gray	Great Falls
Nov. 25, 1968	Richard Lynn Hanson	Richard Lynn Knight	Roosevelt County
Nov. 25, 1968	Robert James	Robert Douvia	Missoula
Nov. 25, 1968	Arthur James	Arthur Douvia	Missoula
Nov. 25, 1968	Richard James	Richard Douvia	Missoula
Nov. 27, 1968	Arega Robert Mingo, Jr.	Robert Curtis Lowe	Great Falls
Dec. 6, 1968	Linda Gay Brezinsky	Linda Gay Cahill	Dillon
Dec. 17, 1968	Francie Kay Nutter	Francie Kay Pope	Helena
Dec. 20, 1968	Carolyn Embry	Carolyn Dunsworth	Great Falls
Dec. 26, 1968	Roy Michael Evans	Roy Michael Hamilton	Park County

HeinOnline -- 1969 vol. II 1294 1969

APPENDIX

HeinOnline -- 1969 vol. II 1295 1969

HeinOnline -- 1969 vol. II 1296 1969

APPENDIX

The following referendum measure (No. 65) was adopted by the people of the general election held November 5, 1968.

REFERENDUM MEASURE NO. 65

CHAPTER 50

MONTANA SESSION LAWS 1967

An Act Submitting to the Electorate at the November 1968 General Election the Question of Whether or Not the Legislative Assembly Shall Levy a Property Tax, in Addition to Any Levy Authorized by Section 9, Article XII of the Montana Constitution of Not to Exceed Six (6) Mills on the Taxable Value of All Real and Personal Property Each Year for Ten (10) Years Beginning With the Year 1969 and Appropriate the Revenue From That Levy for the Support, Maintenance and Improvement of the Montana University System.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Upon the approval of the electors of this state, to be determined by their vote at the general election to be held in November of 1968, the legislative assembly shall levy a property tax, in addition to any levy authorized by section 9, article XII of the Montana constitution, of not more than six (6) mills on the taxable value of all real and personal property each year for ten (10) years beginning with the year 1969. All revenue from this property tax levy shall be appropriated for the support, maintenance, and improvement of the Montana university system.

Section 2. This referendum shall be submitted to the electors on an official ballot which shall contain the title of this act and the number of the referendum. The question shall be presented in substantially the following form:

☐ For Referendum Measure No.....

☐ Against Referendum Measure No.....

Approved: February 18, 1967.

HeinOnline -- 1969 vol. II 1297 1969

HeinOnline -- 1969 vol. II 1298 1969

Section 6. The chairman of the committee, with the consent of the other members, may appoint an executive secretary and other staff members as needed, define their duties, and set their salaries.

Section 7. The highway department shall furnish secretarial and legal aid to the committee as requested by the committee.

Section 8. All expenses of the interim committee shall be paid out of the earmarked revenue fund, state highway account.

Section 9. (1) Each member of the interim committee, temporary members, and staff personnel shall be reimbursed for expenses for attending meetings at the rate of twenty dollars ($20) per day plus fifteen dollars ($15) per day plus mileage while in the state of Montana.

(2) Each member of the interim committee, temporary members, and staff personnel, shall be reimbursed for travel and expenses as provided for state employees and elected officials in R.C.M. 1947, sections 59-538, 59-801, and 59-802.

Section 10. The committee shall maintain complete records of all evidence gathered, including a written transcript of all testimony taken at hearings, and shall submit a written report to the forty-first legislative assembly.

Section 11. There is appropriated forty thousand dollars ($40,000) from the earmarked revenue fund, state highway account, to carry out the purposes of this act.

Section 12. This act is effective on passage and approval.

Approved: March 18, 1967.

NOTE: Governor Babcock vetoed in their entirety Sections 8, 9 and 11 of Extraordinary Session House Bill No. 14, which veto was sustained in the House by a roll call vote.

EXTRAORDINARY SESSION HOUSE BILL NO. 17

An Act Appropriating Money for the Operation of the Extraordinary Session of the Fortieth Legislative Assembly Convened on March 3, 1967.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. One hundred fifty thousand dollars ($150,000) is appropriated from the general fund for the operation of the extra-

HeinOnline -- 1967 vol. II 1299 1967

ordinary session of the fortieth legislative assembly convened on March 3, 1967.

Section 2. This act is effective on passage and approval.

Approved: March 10, 1967.

EXTRAORDINARY SESSION HOUSE BILL NO. 21

An Act to Appropriate Money to Certain State Agencies for the Biennium Ending June 30, 1969.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. For the purposes of this act, unless otherwise stated:

(1) The term "operation" means all ordinary and necessary expenditures for operation of the agency to which the appropriation applies, and repairs and maintenance, but does not include personal services.

(2) The term "personal services" means all salaries and wages of full-time, part-time, and temporary employees of the state and includes the state's contribution for social security, public employees' retirement, teachers' retirement, and industrial accident insurance.

(3) The term "repairs and maintenance" means repairs to equipment and the cost of replacing parts of equipment, repairs to buildings and to the plumbing, heating, wiring and air-conditioning systems in buildings occasioned by ordinary wear and tear or by physical damage, and the cost of painting the exteriors and interiors of buildings. Major alterations of existing buildings are capital expenditures and are not repairs and maintenance.

(4) The term "capital" means those items which do not lose their identity, which are adaptable to continuing use and have a useful life of more than one (1) year. Capital shall include the replacement of existing capital assets, as well as new acquisitions, but does not include expenditures for the construction, improvement, betterment, or furnishing of buildings, structures, or purchase of buildings or land unless specifically authorized.

(5) The term "grants and benefits" means expenditures for grants to political subdivisions, associations, or individuals, and includes, but is not limited to retirement and disability compensation, and unemployment benefits.

HeinOnline -- 1967 vol. II 1300 1967

(6) The term "approved budget amendment" means approval by the state's chief budget officer upon submission to him through the budget director.

Section 2. (1) The appropriations contained in this act are intended to provide only necessary and ordinary expenditures for the year for which the appropriations are made; however, in case of necessity an appropriation not expended during the fiscal year may be expended during the second fiscal year.

(2) Each agency shall make such modifications in its administrative practices and changes in its various accounts including personal services, supplies and materials, communications, utilities, travel, contracted services, special fees, and repairs and maintenance to keep within its appropriation.

(3) It shall be unlawful to purchase any article or service for a succeeding biennium with an appropriation contained in this act.

(4) Balances of any appropriations unexpended at the end of the second fiscal year, except amounts encumbered by purchase order, shall revert to the funds from which they were appropriated.

(5) Any monies appropriated for budgeted positions that are not filled shall revert to the fund from which they were appropriated.

Section 3. Unless otherwise provided in this act, all monies received or collected from any source whatsoever by the agencies, commissions, or boards named in this act shall be deposited in the state treasury and credited to the proper fund.

Section 4. The salary of the chief administrator of each agency, commission, or board shall be determined by the appointing authority in accordance with the statutory provisions and, in no case, shall the salary determined exceed the amounts set out in this act for a specific agency.

Section 5. In addition to the amounts specifically appropriated by this act, there is hereby appropriated to each agency, commission, or board all federal monies, income from land grants and trust funds to which it is entitled. All other monies received from all other sources may be made available by an approved budget amendment.

Section 6. No state officer, board, agency, or commission shall establish new programs or expand existing programs beyond the scope of the programs already established, recognized and approved by the legislature in the review of the 1969 biennial budget,

HeinOnline -- 1967 vol. II 1301 1967

until such program and the method of financing shall be presented to the state's chief budget officer, through the budget director, for approval.

Section 7. Where the operation of an office, board, agency or commission is financed by an appropriation or appropriations from the general fund as well as by funds from other sources, the portion provided by appropriation from the general fund shall be decreased to the extent that the receipt of the funds from other sources approved by the legislature in the review of the 1969 biennial budget are exceeded, provided that:

(1) Such decrease shall not jeopardize the receipt of such funds to be received from other sources; and

(2) This section shall not apply to any fund if such excess receipts are to be expended for a purpose or purposes approved by the state's chief budget officer, upon submission to him, through the budget director.

Section 8. The following monies are appropriated for the biennium ending June 30, 1969:

	For the Fiscal Year Ending June 30, 1968	For the Fiscal Year Ending June 30, 1969
ADJUSTED COMPENSATION DIVISION		
(1) From the earmarked revenue fund, war veterans' compensation administrative account for:		
(a) personal services	$ 9,000	$ 9,000
(b) operation	1,600	1,600
(2) Additional monies in this account may be made available by approved budget amendment.		
(3) The head of this agency shall not receive a salary in excess of $8,400 for the fiscal year ending June 30, 1968; and $8,400 for the fiscal year ending June 30, 1969.		
BOARD OF EQUALIZATION		
(1) From the general fund for:		
(a) personal services	551,000	567,800
(b) operation and capital	90,000	82,000

HeinOnline -- 1967 vol. II 1302 1967

(2) From the earmarked revenue fund:

(a) highway account for personal services	108,600	112,000
(b) highway account for operation and capital	46,700	41,600
(c) state equalization aid account for operation	114,700	116,600
(d) aeronautics commission account for operation	5,000	5,000

(3) The amount of $2,000 is hereby appropriated from the earmarked revenue, highway account to the revolving fund, board of equilization account. From the revolving fund, board of equalization account there is appropriated all income from reimbursable expenditures for audits of motor fuel producers, dealers and users. Any balance remaining in this account at the end of the biennium shall revert to the account from which the appropriation was made.

(4) The salaries of the members of the board shall not exceed $10,300 for the fiscal year ending June 30, 1968; and $10,600 for the fiscal year ending June 30, 1969. The chairman of the board shall receive $500 each year in addition to his regular salary.

BOARD OF EXAMINERS

(1) From the general fund for:

(a) personal services	46,300	47.700
(b) operation and capital	16,500	14,100
(c) extradition and transportation of prisoners	50,000	50,000

HeinOnline -- 1967 vol. II 1303 1967

(d) repair and maintenance of the roll call equipment in the house of representatives	6,500	-0-
(e) fire and casualty insurance premiums on state property	118,200	131,000
(f) contracted services to Montana veterans, their widows and orphans, on claims before the Veterans Administration of the of the United States	6,000	6,000
(2) From the earmarked revenue fund for fire and casualty insurance premiums on state property from:		
(a) university millage account	140,000	177,000
(b) highway account	40,000	45,000
(c) fish and game account	7,200	7,800
(d) motor vehicle account	900	1,000
(3) The head of this agency shall not receive a salary in excess of $9,270 for the fiscal year ending June 30, 1968; and $9,550 for the fiscal year ending June 30, 1969.		

COORDINATOR OF INDIAN AFFAIRS

(1) From the general fund for:		
(a) personal services	11,600	11,700
(b) operation and capital	3,450	3,450
(2) The head of this agency shall not receive a salary in excess of $7,200 for the fiscal year ending June 30, 1968; and $7,200 for the fiscal year ending June 30, 1969.		

LAW LIBRARY

(1) From the general fund for:		
(a) personal services	11,650	11,800
(b) operation and capital	12,100	12,000

HeinOnline -- 1967 vol. II 1304 1967

(2) The head of this agency shall not receive a salary in excess of $7,200 for the fiscal year ending June 30, 1968; and $7,200 for the fiscal year ending June 30, 1969.

LIBRARY COMMISSION

(1) From the general fund for:		
(a) personal services	49,290	49,700
(b) operation and capital	50,710	50,300
(2) From the federal and private revenue fund, library commission account for		
(a) personal services	20,642	20,912
(b) operation and capital	21,744	22,154

(3) Federal grants as authorized by the Congress of the United States through the Library Services and Construction Act are hereby appropriated.

(4) The salary for the state librarian shall not exceed $10,500 for the fiscal year ending June 30, 1968; and $11,000 for the fiscal year ending June 30, 1969.

JOINT MERIT SYSTEM

(1) From the earmarked revenue fund, joint merit system account, for:		
(a) personal services	33,700	35,400
(b) operation and capital	6,900	6,100

(2) Additional monies in this account may be made available by approved budget amendment.

(3) The head of this agency shall not receive a salary in excess of $10,500 for the fiscal year ending June 30,

HeinOnline -- 1967 vol. II 1305 1967

1968; and $11,000 for the fiscal year ending June 30, 1969.

COMMISSION ON PROBLEMS OF THE AGING

(1) From the general fund for:

(a) personal services	9,050	9,200
(b) operation and capital	3,550	3,350

(2) From the federal and private revenue fund, problems of aging account for:

(a) personal services	9,050	9,200
(b) operation and capital	3,550	3,350

(c) additional monies in this account may be made available by approved budget amendment.

(3) The head of this agency shall not receive a salary in excess of $8,940 for the fiscal year ending June 30, 1968; and $8,940 for the fiscal year ending June 30, 1969.

BOARD OF HAIL INSURANCE

(1) From the earmarked revenue fund, hail insurance administrative account for:

(a) personal services	28,600	29,200
(b) operation	20,600	20,500

(2) Additional monies in this account may be made available by approved budget amendment.

(3) The head of this agency shall not receive a salary in excess of $8,500 for the fiscal year ending June 30, 1968; and $8,500 for the fiscal year ending June 30, 1969.

HeinOnline -- 1967 vol. II 1306 1967

OIL AND GAS CONSERVATION COMMISSION

(1) From the earmarked revenue fund, oil and gas conservation account for:		
(a) personal services	122,400	123,800
(b) operation and capital	61,800	60,300
(2) Additional monies in this account may be made available by approved budget amendment.		
(3) The head of this agency shall not receive a salary in excess of $11,700 for the fiscal year ending June 30, 1968; and $12,000 for the fiscal year ending June 30, 1969.		

INDUSTRIAL ACCIDENT BOARD

(1) From the general fund for:		
(a) silicosis program for personal services	6,000	6,100
(b) silicosis program for operation	2,300	2,100
(c) silicosis program for grants and benefits	756,000	680,000
(2) From the earmarked revenue fund:		
(a) industrial accident administration account for personal services	389,900	402,000
(b) industrial accident administration account for operation and capital	260,300	244,800
(c) volunteer firemen's compensation account for grants and benefits	5,500	5,500
(d) Additional monies in items (2)-(a), (b), (c) above may be made available by approved budget amendment.		

HeinOnline -- 1967 vol. II 1307 1967

(3) The head of this agency shall not receive a salary in excess of $12,000 for the fiscal year ending June 30, 1968; and $12,000 for the fiscal year ending June 30, 1969, and shall be paid from the earmarked revenue fund, industrial accident administration account.

GRASS CONSERVATION COMMISSION

(1) From the earmarked revenue fund, grass conservation account for:

(a) personal services	10,600	10,600
(b) operation	6,100	6,100

(2) Additional monies in this account may be made available by approved budget amendment.

(3) The head of this agency shall not receive a salary in excess of $10,000 for the fiscal year ending June 30, 1968; and $10,000 for the fiscal year ending June 30, 1969.

PUBLIC EMPLOYEES' RETIREMENT SYSTEM

(1) From the earmarked revenue fund:

(a) public employees' retirement system account for personal services	82,200	84,850
(b) public employees' retirement system account for operation and capital	45,000	46,300
(c) social security account for personal services	27,200	28,150
(d) social security account for operation and capital	13,700	12,200

(e) Additional monies in these accounts may be made available by approved budget amendment.

HeinOnline -- 1967 vol. II 1308 1967

(2) Montana Judges Retirement Board for administration of same	1,500	1,500
(3) The head of this agency shall not receive a salary in excess of $11,000 for the fiscal year ending June 30, 1968; and $11,500 for the fiscal year ending June 30, 1969, and shall be paid one-half by the public employees' retirement system account and one-half by the social security account.		
TEACHERS' RETIREMENT SYSTEM		
(1) From the earmarked revenue fund, teachers' retirement account for:		
(a) personal services	47,300	48,900
(b) operation and capital	29,800	28,700
(2) Additional monies in this account may be made available by approved budget amendment.		
(3) The head of this agency shall not receive a salary in excess of $11,000 for the fiscal year ending June 30, 1968; and $11,500 for the fiscal year ending June 30, 1969.		
VETERANS' WELFARE COMMISSION		
(1) From the general fund for:		
(a) personal services	117,200	120,400
(b) operation and capital	31,300	31,200
(2) The head of this agency shall not receive a salary in excess of $8,500 for the fiscal year ending June 30, 1968; and $8,800 for the fiscal year ending June 30, 1969.		
BOARD OF HEALTH		
(1) From the general fund for:		
(a) personal services, operation and capital	603,200	645,700

HeinOnline -- 1967 vol. II 1309 1967

(b) administration of the Clean Air Act for the fiscal year 1967-1968 and may be used to supplement local programs for for the fiscal year 1968-1969 ..	75,000	-0-
(c) regulation of transient lodging space and accommodations, all fees collected for such purposes are hereby appropriated.		
(2) From the federal and private revenue fund:		
(a) public health account for personal services, operation and capital	1,188,100	1,168,000
(b) heart and chest x-ray survey account for personal services, operation and capital	12,300	12,300
(c) Additional monies in these accounts and all grants, other funds and gifts from public and private agencies including the United States government, received in accordance with the provisions of the Clean Air Act or Radiation Control Act may be made available by an approved budget amendment.		
(3) The salary for the executive officer of this board shall not exceed $21,000 per year for either year of the biennium.		
DISTRICT JUDGES		
(1) From the general fund for:		
(a) personal services	457,800	458,300
(b) operation	42,000	42,000
MILK CONTROL BOARD		
(1) From the earmarked revenue fund, milk control account for:		
(a) personal services	70,300	74,100

HeinOnline -- 1967 vol. II 1310 1967

(b) operation and capital	38,300	37,100
(2) Additional monies in this account may be made available by approved budget amendment.		
(3) The head of this agency shall not receive a salary in excess of $10,000 for the fiscal year ending June 30, 1968; and $10,500 for the fiscal year ending June 30, 1969.		
FISH AND GAME COMMISSION		
(1) From the general fund for:		
(a) personal services, operation and capital	150,000	150,000
(2) From the earmarked revenue fund, fish and game account for:		
(a) personal services, operation, capital, and grants and benefits	3,717,000	3,840,000
(b) payment of Link Brothers contract at Lewis & Clark Caverns	12,750	12,750
(3) From the earmarked revenue fund, fish and game account to allow the commissioner of lands and investments to reimburse the former lessee of state lease No. 51868 for improvements on said lease, thus allowing the state board of land commissioners to complete the exchange of land authorized by chapter 70, Laws of 1965.	1,677.50	-0-
(4) From the federal and private revenue fund, fish and game account, all federal monies are hereby appropriated.		
(5) The salary of the director of the fish and game commission shall not exceed $16,250 for the fiscal year ending June 30, 1968; and $16,750 for the fiscal year ending June 30, 1969.		

HeinOnline -- 1967 vol. II 1311 1967

DEPARTMENT OR LABOR
AND INDUSTRY

()1 From the general fund for:

(a) personal services	37,800	38,900
(b) operation and capital	14,000	12,200
(c) for recodification of safety codes	2,875	2,875

(2) The salary of the commissioner of labor shall not exceed $7,725 for the fiscal year ending June 30, 1968; and $7,950 for the fiscal year ending June 30, 1969.

AERONAUTICS COMMISSION

(1) From the earmarked revenue fund, aeronautics commission account for:

(a) personal services	177,600	177,600
(b) operation and capital	326,100	156,000
(c) engineering grants	10,500	10,500
(d) state airport construction, maintenance, and repair, as authorized by law, including state airport land purchases	262,500	262,500

(e) as much as may be necessary for construction loans. Every municipality is authorized to accept, receive, receipt for, disburse and expend such state monies made available for such state loans. All state monies accepted by a municipality shall be accepted and expended by such municipality upon such terms and conditions as are prescribed by the state. The term "municipalities" as used herein shall have the meaning given to such

HeinOnline -- 1967 vol. II 1312 1967

term by the municipal airports act (section 1-808, R.C.M. 1947).	390,600	220,500
(2) From the revolving fund, aeronautics commission account for:		
(a) state airport personal services, operation and capital	67,900	37,900
(3) From the federal and private grant clearance fund, aeronautics commission account, all monies appropriated by federal government for specific airport projects.		
(4) The head of this agency shall not receive a salary in excess of $12,500 for the fiscal year ending June 30, 1968; and $12,500 for the fiscal year ending June 30, 1969.		
STATE FORESTER		
(1) From the general fund for:		
(a) personal services, operation and capital	444,900	447,100
(2) From the earmarked revenue fund for personal services, operation and capital:		
(a) slash and brush disposal account	222,200	221,100
(b) timber stand improvement account	40,500	40,500
(c) forester's nursery account	45,000	48,000
(3) From the federal and private revenue fund for personal services, operation and capital:		
(a) Clark-McNary account	75,000	85,900
(b) cooperative forest management account	45,000	45,500
(c) neighborhood youth corps account	26,500	-0-

HeinOnline -- 1967 vol. II 1313 1967

(4) Additional monies in the accounts shown in (2) and (3) above may be made available by approved budget amendment.

(5) The salary for the state forester shall not exceed $13,300 for the fiscal year ending June 30, 1968; and $13,700 for the fiscal year ending June 30, 1969.

HIGHWAY COMMISSION

There is hereby appropriated from the earmarked revenue fund, state highway account, appropriation number 36707 any unexpended balance remaining as of June 30, 1967, for the biennium for the promotion of the National Boy Scout Jamboree to be held in Montana.

Section 9. It is the intent of the legislative assembly that if a part of this act is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this act is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Approved: March 20, 1967.

EXTRAORDINARY SESSION HOUSE BILL NO. 25

An Act Appropriating Money to the University of Montana, Montana State University, the Agricultural Experiment Station, the Cooperative Agricultural Extension Service, Montana College of Mineral Science and Technology, the Montana Bureau of Mines and Geology, Western Montana College, Eastern Montana College, Northern Montana College, Western Interstate Commission for Higher Education, Office of Executive Secretary of the Montana University System for Operation and Capital for the Biennium Ending June 30, 1969.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. For the purposes of this act, unless otherwise stated:

(1) The term "personal services" means all salaries and wages

HeinOnline -- 1967 vol. II 1314 1967

of full-time, part-time employees and temporary employees of the state and includes the state's contribution for social security, public employees' retirement, teachers' retirement, and industrial accident insurance.

(2) The term "operation" means all ordinary and necessary expenditures for the operation of the agency to which the appropriation applies, and repairs and maintenance, but does not include personal services.

(3) The term "repairs and maintenance" means repairs to equipment and the cost of replacing parts of equipment, repairs to buildings and to the plumbing, heating, wiring and air-conditioning systems in buildings occasioned by ordinary wear and tear or by physical damage, and the cost of painting the exteriors and interiors of buildings. Major alterations of existing buildings are capital expenditures and are not repairs and maintenance.

(4) The term "capital" means those items which do not lose their identity, which are adaptable to continuing use and have a useful life of more than one (1) year. Capital shall include the replacement of existing capital assets, as well as new acquisitions, but does not include expenditures for the construction, improvement, betterment, or furnishing of buildings, structures, or purchase of buildings or land unless specifically authorized.

(5) The term "grants and benefits" means expenditures for grants to political subdivisions, associations or individuals, and includes, but is not limited to, retirement and disability compensation and unemployment benefits.

(6) The term "approved budget amendment" means approval by the state's chief budget officer upon submission to him through the budget director.

(7) The term "student fees" means all registration and incidental fees, but not student building fees, and all nonresident fees other than nonresident building fees, which are imposed uniformly on all students, or upon all nonresident students, in attendance at any unit of the Montana university system.

Section 2. (1) The appropriations contained in this act are intended to provide only necessary and ordinary expenditures for the year which the appropriations are made; however, in case of necessity an appropriation not expended during the first fiscal year may be expended during the second fiscal year.

(2) Each agency shall make such modifications in its administrative practices and changes in its various accounts including

HeinOnline -- 1967 vol. II 1315 1967

personal services, supplies and materials, communications, utilities, travel, contracted services, special fees, and repairs and maintenance to keep within its appropriation.

(3) It shall be unlawful to purchase any article or service for a succeeding biennium with an appropriation contained in this act.

(4) Balances of any appropriation unexpended at the end of the second fiscal year, except amounts encumbered by purchase order, shall revert to the funds from which they were appropriated.

Section 3. Unless otherwise provided, all monies received or collected from any source whatsoever by the agencies, boards or institutions named in this act shall be deposited in the state treasury and credited to the proper fund.

Section 4. The salary of the chief administrator of each agency, commission, board or institution shall be determined by the appointing authority in accordance with statutory provisions.

Section 5. In addition to the amounts specifically appropriated by this act, there is hereby appropriated to each agency, commission, board, department, or institution all federal monies, income from land grants and trust funds to which it is entitled. All other monies received from all other sources may be made available by an approved budget amendment.

Section 6. The following monies are appropriated for the biennium ending June 30, 1969:

	For the Fiscal Year Ending June 30, 1968	For the Fiscal Year Ending June 30, 1969
UNIVERSITY OF MONTANA		
(1) From the earmarked revenue fund, student fee account, for personal services and operations	$1,730,000	$1,845.000
(2) From the general fund for personal services	5,135,000	6,120,000
(3) From the earmarked revenue fund, university millage account for operation and capital	1,625,000	1,675,000
MONTANA STATE UNIVERSITY		
(1) From the earmarked revenue fund, student fee account, for personal services and operations	$1,675,000	$1,785,000

HeinOnline -- 1967 vol. II 1316 1967

(2) From the general fund for personal services	5,305,000	6,350,000
(3) From the earmarked revenue fund, university millage account, for operation and capital	1,720,000	1,775,000
AGRICULTURAL EXPERIMENT STATION		
(1) From the general fund for personal services	$1,000,000	$1,100,000
(2) From the general fund for operation and capital	500,000	600,000
COOPERATIVE EXTENSION SERVICE		
(1) From the general fund for personal services	$ 410,000	$ 475,000
(2) From the general fund for operation and capital	90,000	100,000
MONTANA COLLEGE OF MINERAL SCIENCE AND TECHNOLOGY		
(1) From the earmarked revenue fund, student fee account, for personal services and operations	$ 150,000	$ 160,000
(2) From the general fund for personal services	850,000	900,000
(3) From the general fund for operation and capital	50,000	70,000
(4) From the earmarked revenue fund, university millage account, for operation and capital	145,000	150,000
MONTANA BUREAU OF MINES AND GEOLOGY		
(1) From the general fund for coal research	$ 20,000	$ 20,000
(2) Ground water branch of the Montana bureau of mines and geology	17,500	—0—

HeinOnline -- 1967 vol. II 1317 1967

(3) Bureau—U.S.G.S. cooperative program	21,000	—0—
EASTERN MONTANA COLLEGE		
(1) From the earmarked revenue fund, student fee account, for personal services and operations	$ 659,000	$ 704,000
(2) From the general fund for personal services	1,500,000	1,775,000
(3) From the earmarked revenue fund, university millage account for operation and capital	720,000	740,000
NORTHERN MONTANA COLLEGE		
(1) From the earmarked revenue fund, student fee account, for personal services and operations	$ 278,000	$ 298,000
(2) From the general fund for personal services	875,000	1,015,000
(3) From the earmarked revenue fund, university millage account, for personal services	55,000	55,000
(4) From the earmarked revenue fund, university millage account, for operation and capital	280,000	290,000
WESTERN MONTANA COLLEGE		
(1) From the earmarked revenue fund, student fee account, for personal services and operations	$ 225,000	$ 240,000
(2) From the general fund for personal services	550,000	655,000
(3) From the earmarked revenue fund, university millage account, for personal services	40,000	40,000
(4) From the earmarked revenue fund, university millage account, for operation and capital	200,000	207,000

HeinOnline -- 1967 vol. II 1318 1967

OFFICE OF EXECUTIVE SECRETARY MONTANA UNIVERSITY SYSTEM		
(1) From the general fund for personal services	$ 55,000	$ 56,000
(2) From the general fund for operation and capital	10,000	10,000
(3) From the general fund for N.D. E.A. matching loan funds	30,000	30,000
(4) From the general fund for W.I.C. H.E. administration	16,000	16,000
(5) From the general fund for W.I.C. H.E. student payments	146,600	183,600

Section 7. If any section, subsection, sentence, clause or phrase of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this act. The legislature hereby declares that it would have passed this act and each section, subsection, sentence, clause and phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared unconstitutional.

Approved: March 20, 1967.

EXTRAORDINARY SESSION HOUSE BILL NO, 28

An Act to Appropriate Money for the Support of Public Schools; Appropriating Money for the Foundation Program and School Transportation Payments for the Biennium Ending June 30, 1969; Providing for Appropriations for Payments to School Districts for Children of a State Employee Residing on the Property of State Institutions Who Attend School in the District for the Fiscal Years Ending June 30, 1968, and June 30, 1969; Appropriating Money for Vocational-Technical Programs for the Biennium Ending June 30, 1969; and Appropriating Money for the School for Deaf and Blind for the Biennium Ending June 30, 1969; and Reappropriating Certain Unexpended Balances Remaining on June 30, 1967.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Unexpended balances remaining in certain specific accounts on June 30, 1967 are reappropriated, and are hereby appropriated, for payments to public schools as follows:

HeinOnline -- 1967 vol. II 1319 1967

(1) From the general fund, account number 63501, for payment of state equalization aid to common school districts, high school districts and county high schools in accordance with the school foundation program for the fiscal year ending June 30, 1968, any unexpended balance;

(2) From the general fund, account number 63502, for payment of transportation aid in accordance with Montana school law for the fiscal year ending June 30, 1968, any unexpended balance;

(3) From the earmarked revenue fund, state equalization aid account number 221700, for payment of state equalization aid to common school districts, high school districts and county high schools in accordance with the school foundation program for the fiscal year ending June 30, 1968, any unexpended balance.

Section 2. In addition to the foregoing appropriations, the following moneys are appropriated for the biennium ending June 30, 1969:

	For the Fiscal Year Ending June 30, 1968	For the Fiscal Year Ending June 30, 1969
(1) From the general fund for payment of state equalization aid to common school districts, high school districts and county high schools in accordance with the school foundation program for the fiscal year ending June 30, 1968, the total amount of state funds distributed to schools for the foundation program shall not exceed an amount necessary to provide state equalization level of ninety-one percent (91%) based on the school budgets approved and adopted for the 1967-68 school year	$12,000,000	$12,500,000
(2) From the general fund for payment of transportation aid in accordance with Montana school law	1,250,000	1,214,000
(3) From the earmarked revenue fund, state equalization aid account No. 221700, for payment of state equalization aid to common school districts, high school districts and		

HeinOnline -- 1967 vol. II 1320 1967

county high schools, as much as necessary to fulfill the legal obligations of the school foundation program.		
(4) From the earmarked revenue fund, state equalization aid account No. 221700, for payments to school districts in accordance with the provisions of section 75-3624, R.C.M. 1947:		
(a) For the fiscal year ending June 30, 1968, as much as may be necessary to fulfill the legal obligations of the act;		
(b) For the fiscal year ending June 30, 1969, as much as may be necessary to fulfill the legal obligations of the act.		
(5) From the general fund to the Montana state board of education for vocational-technical education an amount not to exceed	450,000	450,000
and in addition from the general fund to northern Montana college for training vocational-technical teachers an amount not to exceed	50,000	50,000
(6) From the general fund to the school for deaf and blind, for personal services	322,400	332,000
operation and capital	86,310	79,469

Salary of the superintendent shall be paid from the general fund and shall not exceed $11,000 for the first year of the biennium and $11,500 for the second year of the biennium.

Section 3. It is the intent of the legislative assembly that if a part of this act in invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this act is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Approved: March 20, 1967.

HeinOnline -- 1967 vol. II 1321 1967

EXTRAORDINARY SESSION HOUSE BILL NO. 33

An Act to Appropriate Moneys for Certain Agencies of State Government for the Biennium Ending June 30, 1967.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. There is appropriated one thousand dollars ($1,000) from the general fund to the legislative audit committee for personnel, operations and capital for the biennium ending June 30, 1967.

Section 2. There is appropriated nine hundred seventy-eight dollars ($978) from the general fund to the secretary of state for personnel and operations for the biennium ending June 30, 1967.

Section 3. There is appropriated fifteen hundred dollars ($1,500) from the general fund to the governor for operations for the biennium ending June 30, 1967.

Section 4. This act is effective on passage and approval.

Approved: March 20, 1967.

EXTRAORDINARY SESSION HOUSE BILL NO. 34

An Act Appropriating Twenty-five Hundred Dollars ($2,500) from the General Fund to the State Board of Health for the Biennium Ending June 30, 1967 for the Purpose of Holding a Statewide Water Pollution and Water Quality Standards Hearing.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. There is appropriated twenty-five hundred dollars ($2,500) from the general fund to the state board of health for the biennium ending June 30, 1967 for the purpose of holding a statewide water pollution and water quality standards hearing.

Section 2. This act is effective upon passage and approval.

Approved: March 18, 1967.

EXTRAORDINARY SESSION HOUSE BILL NO. 36

An Act to Appropriate Moneys to the State Board of Health for the Fiscal Year Ending June 30, 1969, to Implement the Local Control Provisions of the Clean Air Act.

HeinOnline -- 1967 vol. II 1322 1967

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. There is appropriated from the general fund to the state board of health fifteen thousand dollars ($15,000) for the fiscal year beginning July 1, 1968, and ending June 30, 1969, to implement the local control provisions of the Clean Air Act.

Approved: March 20, 1967.

EXTRAORDINARY SESSION HOUSE BILL NO. 37

An Act Appropriating Moneys from the General Fund for an Interim Committee to Conduct a Study of the Operation of the Legislative Assembly and Report Its Findings and Recommendations to the Forty-first Legislative Assembly.

WHEREAS, the operation of the legislative assembly is an intricate process; and

WHEREAS, if improvements in procedures, practices, and staffing pattern could be achieved, the legislative assembly could better serve the people of Montana; and

WHEREAS, the press of business during a legislative assembly is too great to permit the orderly and reflective examination of the legislative operation; and

WHEREAS, a Montana citizens' committee on the state legislature offers a feasible means for careful study of the operation of the legislative assembly on a non-political, non-partisan basis; and

WHEREAS, such a committee can make an objective study of the problems related to legislative sessions; and

WHEREAS, the Montana citizens' committee on the state legislature, which was organized in 1966, has devoted many hours of study and work on the problems of the legislature and has submitted an excellent report for the consideration of the members of the assembly; and

WHEREAS, the time limitation of the fortieth Montana legislature did not permit an adequate study of the report of the citizens' committee; and

WHEREAS, the fortieth legislative session has, by Resolution No. 14, commended the citizens' committee for its excellent work; and

WHEREAS, we the members of the foreieth legislative assembly

HeinOnline -- 1967 vol. II 1323 1967

believe that the state of Montana and future legislatures could benefit by continuing the existence and work of this committee.

NOW, THEREFORE, BE IT RESOLVED that the fortieth legislative assembly request the Montana citizens' committee on the state legislature to continue its study and report its findings and recommendations to the forty-first legislative assembly.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. There is created an interim committee to assist in continuing the work of the Montana citizens' committee on the state legislature.

Section 2. (1) The committee shall be composed of two (2) members of the house, one (1) from each political party, appointed by the speaker; and two (2) members of the senate, one (1) from each political party, appointed by the committee on committees.

(2) The committee shall elect a chairman from its membership.

Section 3. The committee shall report the findings and recommendations of the Montana citizens' committee on the state legislature to the forty-first legislative assembly.

Section 4. There is appropriated one hundred dollars ($100) from the general fund to carry out the purposes of this act.

Approved: March 20, 1967.

EXTRAORDINARY SESSION HOUSE BILL NO. 43

An Act Appropriating Eight Thousand Dollars ($8,000) from the Federal and Private Revenue Fund, Capitol Building Account, to the State Controller for Capital Renovation in the Governor's Office for the Biennium Ending June 30, 1967.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. There is hereby appropriated eight thousand dollars ($8,000) from the federal and private revenue fund, capitol building account, to the state controller for the purpose of renovating the governor's office, providing a ventilation system therefore, and for certain new furnishings.

Section 2. This act shall be effective upon passage and approval.

Approved: March 20, 1967.

HeinOnline -- 1967 vol. II 1324 1967

CHANGES OF NAMES DECREED IN 1965-1966

Date of Judgment	Original Name	Name Decreed	Residence
*March 10, 1964	John Wayne Packard	Wayne John Real	Townsend
*Dec. 24, 1964	Lois Fern Connolly	Lois Fern Landon	Sweet Grass County
Jan. 29, 1965	Stephen Kent Benker	Stephen Kent Moon	Great Falls
Feb. 5, 1965	Hal David Meyers	Hal David Haefer	Great Falls
Feb. 19, 1965	James Siebers	James S. Callison	Lewis & Clark County
March 2, 1965	Virginia D. Smith	Virginia D. Elliott	Billings
March 24, 1965	Jack Harold Thumma	Jack Harold Thrasher	Billings
April 5, 1965	Merridy Ann Baus	Meridy Ann Wolz	Billings
April 7, 1965	Agnes M. Johnson	Agnes M. Hanson	Malta
April 26, 1965	Marco Thomas Vukosavovich	Mark Thomas Vukich	Gallatin County
May 7, 1965	David Bernard Anderson	David Bernard Koland	Butte
May 14, 1965	Richard Allen Hooper	Richard Allen Ritter	Great Falls
May 17, 1965	Grace Gospel Tabernacle,a corporation	Grace Baptist Church of Bozeman	Bozeman
May 19, 1965	Solomon Schessler	Solomon Schoessler	Laurel
May 26, 1965	Margaret Lynn Johnson	Signe Lynn Johnson	Great Falls
May 27, 1965	Royal Nelson	Royal Bruce Brunson	Missoula County
May 27, 1965	Okla Lily Oleinik	Okla Elise Oleinik	Belfry
May 28, 1965	Dennis Sanford Bills	Dennis Sanford Harlowe	Missoula County
June 2, 1965	Karen I. Davies	Karen I. Johnson	Malta
June 2, 1965	Margaret E. Smith	Margaret E. Chapman	Chinook
June 7, 1965	Kathrin Marian Davis	Grare Kathrin Marian Davis	Bozeman
June 7, 1965	Clifford de la Montagne	Clifford Montagne	Bozeman
June 7, 1965	John de la Montagne	John Montagne	Bozeman
June 7, 1965	Mathew H. de la Montagne	Mathew H. Montagne	Bozeman
June 7, 1965	Phoebe Corthell de la Montagne	Phoebe Corthell Montagne	Bozeman
July 12, 1965	John William Lewis	John William Angell	Miles City
July 12, 1965	Cindy Marie Louis	Cindy Marie Angell	Miles City
July 12, 1965	Mildred Louis	Mildred Angell	Miles City
July 13, 1965	Elsie Garding	Elsie Kalmbach	Miles City
July 21, 1965	Christina Johnson	Christina Kordas	Great Falls
July 23, 1965	Donna Lee Storkel	Donna Lee Martin	Big Timber
July 23, 1965	Dale Eugene Van Horn	Dale Eugene Schaefer	Billings
July 27, 1965	Sarah Poitras	Sarah Moore	Miles City
Aug. 6, 1965	Perpetua C. Poisl	Perpetua C. Roberts	Billings
Aug. 9, 1965	Leonard Lee Channel	Leonard Lee Burgess	Flathead County
Aug. 9, 1965	Peggy Ann Channel	Peggy Ann Burgess	Flathead County
Aug. 20, 1965	Mark Hamilton Warmack	Mark Hamilton Sheffield	Billings
Aug. 23, 1965	Margaret Konda	Margaret Tennant	Wibaux
Aug. 24, 1965	Beulah Irene Newharth	Beulah Irene Peterson	Blaine County
Sept. 2, 1965	Dennis J. (Joseph) Kuchinski	Dennis J. (Joseph) Gary	Belfry
Sept. 3, 1965	James Eugene Waisanen	James Eugene Rogers	Choteau
Sept. 10, 1965	Judith Aileen Bowman	Judith Aileen Rowe	Shelby
Sept. 10, 1965	Michael John Bowman	Michael John Rowe	Shelby
Sept. 13, 1965	Akiko Iki Newkirk	Ikeyann Newkirk	Great Falls
Sept. 15, 1965	Cynthia Kay Reed	Cynthia Kay Roth	Butte
Sept. 16, 1965	Linda Faye Childers	Linda Faye Beck	Miles City
Sept. 20, 1965	Jerry Lee McCauley	Jerry Lee Dayton	Billings
Sept. 24, 1965	Mabelle Lillian Smith	Mabelle Lillian Hutchings	Stevensville
Oct. 20, 1965	Eileen Mangis	Eileen Augustin	Malta
Oct. 29, 1965	Linda Sue Atchison	Linda Sue Peppenger	Libby
Oct. 29, 1965	Elling Haaland	Ron Haaland	Havre
Nov. 5, 1965	Bernard Darling	William Calley Darling	Billings
Nov. 5, 1965	William Lee McNeal	William Lee McNeal Hoff	Billings
Nov. 5, 1965	Raymond Patrick Stevens	Raymond Patrick Scholsberg	Butte
Nov. 15, 1965	Frieda Frey	Frieda Beever	Miles City
Nov. 16, 1965	Marian Lavonne Bigelow	Marian Lavonne Anhalt	Plentywood
Dec. 3, 1965	David Olguin Romero	David Olguin, Jr.	Butte
Dec. 6, 1965	David Lawrence Butt	David Lawrence Mazurek	Lewis & Clark County
Dec. 6, 1965	John Charles Butt	John Charles Mazurek	Lewis & Clark County
Dec. 6, 1965	William James Butt	William James Mazurek	Lewis & Clark County
Dec. 7, 1965	Adeline Hamelstrom	Adeline Lee	Galen (1950), now Albuquerque, N. M.
Dec. 7, 1965	Laura Hamelstrom	Laura Lee	Galen (1950), now Albuquerque, N. M.
Dec. 8, 1965	David Clarence Colvert, Jr.	David Clarence Forsman	Great Falls

HeinOnline -- 1967 vol. II 1325 1967

CHANGES OF NAMES DECREED IN 1965-1966

Date of Judgment	Original Name	Name Decreed	Residence
Dec. 9, 1965	Carolyn Withee	Carolyn Sangel	Cohagen
Dec. 27, 1965	William Phalen Thomas	Phalen William Bailey	Roosevelt County
Dec. 29, 1965	Fred Richard Kerns, Jr.	Fred Richard Adams	Lewis & Clark County
Dec. 31, 1965	Darryl Keith Newville	Darryl Keith Scott	Townsend
Dec. 31, 1965	David Ellis Newville	David Ellis Scott	Townsend
Dec. 31, 1965	Eugene Willard Newville	Eugene Willard Scott	Townsend
Jan. 19, 1966	Louis Edward Kuebler	Louis Edward Decrevel	Anaconda
Jan. 21, 1966	Kerri Roxanne Wetmore	Kerri Roxanne Westmore	Great Falls
Jan. 21, 1966	Connie Irene Wetmore	Connie Irene Westmore	Great Falls
Jan. 21, 1966	Thelma Faye Wetmore	Thelma Faye Westmore	Great Falls
Jan. 21, 1966	Elwood Herman Wetmore	Elwood Herman Westmore	Great Falls
Jan. 26, 1966	Della Dudick	Della Gartside	Saco
Feb. 2, 1966	Charles Lewis Kimble	Charles Lewis Updyke	Great Falls
Feb. 7, 1966	Ronald Dean Flynn	Ronald Dean Wight	Glendive
Feb. 7, 1966	Ted Herikstad	Trygve Herikstad	Glendive
Feb. 15, 1966	Russell Jay Carter	Ted Jay Carter	Denton
Feb. 17, 1966	Diana J. Fairhurst	Diana J. Sonnenburg	Great Falls
Feb. 17, 1966	James L. Fairhurst	James L. Sonnenburg	Great Falls
Feb. 17, 1966	Kimberly Ann Fairhurst	Kimberly Ann Sonnenburg	Great Falls
Feb. 17, 1966	Marian Lynne Fairhurst	Marian Lynne Sonnenburg	Great Falls
Feb. 24, 1966	David Lynn Greco	David Lynn Armstrong	Flathead County
Feb. 24, 1966	Lanny Virgil Greco	Lanny Virgil Armstrong	Flathead County
March 3, 1966	Ruby Kropp	Ruby E. Wiley	Malta
March 4, 1966	James Lawrence Shoemaker	Robert Alain De Beaugrande	Missoula County
March 21, 1966	Gary Lee Manfredi	Gary Lee Ferentchak	Bozeman
March 28, 1966	Charlotte Louise Elizagaray	Charlotte Louise Ellis	Flathead County
March 28, 1966	Estaban Hiram Elizagaray	Steven Hiram Ellis	Flathead County
March 28, 1966	Eugene Howard Elizagaray	Eugene Howard Ellis	Flathead County
March 28, 1966	Irene Delma Elizagaray	Irene Delma Ellis	Flathead County
March 28, 1966	Linda Marie Elizagaray	Linda Marie Ellis	Flathead County
March 29, 1966	Jeannette V. Pilz	Jeannette V. Hastings	Great Falls
April 1, 1966	Kathleen Ann Trobaugh	Kathleen Ann Reynolds	Billings
April 6, 1966	Lana M. Nordlund	Lana M. Fortin	Great Falls
April 18, 1966	Martin Ray Hickman	Martin Ray Barthell	Glendive
April 21, 1966	Wiebe Edward Holt	William Edward Holt	Lewistown
April 21, 1966	Pamela Jayne Vawter	Pamela Jayne Price	Missoula County
April 29, 1965	Fish Lake	Big Sky Lake	Missoula County
May 5, 1966	George Wesley Noel	George Wesley Hunt	Deer Lodge
May 5, 1966	Gordon Victor Noel	Gordon Victor Hunt	Deer Lodge
May 5, 1966	Inez Jane Noel	Inez Jane Hunt	Deer Lodge
May 11, 1966	Thelma Jean Charging Crow	Thelma Jean Merchant	Browning
June 1, 1966	John Kraft	John Johnson	Billings
June 7, 1966	William Arthur Harris	William Arthur Graham	Townsend
June 8, 1966	Billy Nate Walden	Bill Nat Walden	Great Falls
June 15, 1966	Owen Eugene Overbey	Owen Eugene Kerbs	Great Falls
June 15, 1966	Mae Tremblay	Mae Bibeau	Zortman
June 20, 1966	Robert Lloyd McKenzie	Robert Lloyd Darrah	Bozeman
June 21, 1966	William David Goodman a/k/a William David Hochar	William David Manix	Great Falls
July 7, 1966	Robert Lee Peschel	Robert Lee Willig	Missoula County
July 25, 1966	Elizabeth Ann Brown	Christy A. Legere	Flathead County
July 27, 1966	Terrance R. Gessele	Terrance R. Johnson	Anaconda
Aug. 5, 1966	Honey Heartha Teske	Ruth Ann Teske	Havre
Aug. 8, 1966	Steven Douglas Kline	Steven Douglas Latterell	Billings
Aug. 8, 1966	Glenn Wayne Needles	Glenn Wayne Rich	Missoula County
Aug. 10, 1966	Lois Brown	James Lynn Brown	Cascade County
Aug. 10, 1966	David Charles Emery	David Charles Morrison	Augusta
Aug. 10, 1966	Douglas Kevin Emery	Douglas Kevin Morrison	Augusta
Aug. 15, 1966	Ruth M. Veselich	Ruth Jean McLeod	Bozeman
Aug. 17, 1966	Pancy Mary Dorn	Pansy Mary Wilson	Havre
Aug. 17, 1966	Antonio Valenzuela	Tony Gomez	Billings
Aug. 18, 1966	Laura Jean Baker	Laura Jean Spogen	Red Lodge
Aug. 22, 1966	Tina First Sound	Tina Follette	Roosevelt County
Aug. 30, 1966	Christina Carolyn Schott	Tina Carolyn Nickerson	Missoula County
Aug. 31, 1966	Jerrell Duane Ballas	Jerrell David Ballas	Anaconda
Sept. 1, 1966	Larry Joe Ginnings	Lawrence Joseph Ginnings	Missoula County
Sept. 7, 1966	David Michael Eisenhard	David Michael Kelly	Great Falls
Sept. 16, 1966	Eymard Stands Over Bull	Eymard Lefthand	Pryor

HeinOnline -- 1967 vol. II 1326 1967

CHANGES OF NAMES DECREED IN 1965-1966

Date of Judgment	Original Name	Name Decreed	Residence
Sept. 23, 1966	William Al Rehberg	Al J. Stevens	Billings
Oct. 1, 1966	Diane Kay Ness	Diane Kay Kemp	Bozeman
Oct. 1, 1966	Larry Albert Ness	Larry Albert Kemp	Bozeman
Oct. 1, 1966	Robert Charles Ness	Robert Charles Kemp	Bozeman
Oct. 1, 1966	Susan Louise Ness	Susan Louise Kemp	Bozeman
Oct. 3, 1966	William Lewis Stricker	William Lewis Wesland	Billings
Oct. 6, 1966	Edna McKenzie	Edna Jarrett	Big Timber
Oct. 11, 1966	Virgil Jerome Miller	Virgil Jerome Schafer	Glasgow AFB
Oct. 11, 1966	Alec Lee Sirnchak	Alec Lee Branden	Daniels County
Oct. 17, 1966	Vernon Lewis Woodgeard, Jr.	James Thomas Jennings	Glasgow AFB
Oct. 21, 1966	Jack Peter Haas	Jack Peter Wigen	Shelby
Oct. 21, 1966	Julie Mae Thiel	Julie Mae Verplancke	Sidney
Oct. 26, 1966	Antonio Luna Gomez	Ventura Peralez	Billings
Oct. 28, 1966	Arthur Richard Hamsa	Arthur Richard Powers	Butte
Nov. 3, 1966	Rose Valgamore	Rose J. Bray	Big Timber
Nov. 7, 1966	Oscar Clyde Jones	Oscar Clyde Ghormley	Butte
Nov. 15, 1966	Victor LaVern Maynard	Victor LaVern Green	Flathead County
Nov. 23, 1966	Carron Lee Petronek	Kerry Lee Petronek	Anaconda
Nov. 25, 1966	Sylvia Ann McCain	Sylvia Anne Palo	Great Falls
Dec. 2, 1966	Donna Jean Brown	Donna Jean Johnson	Missoula County
Dec. 2, 1966	Rosalie Antoinette Brown	Rosalie Antoinette Johnson	Missoula County
Dec. 5, 1966	William Steven Hamilton	Steven Hamilton Gunderson	Missoula County
Dec. 7, 1966	Como Heral Bianco	Jay Ernest Bianco	Cut Bank
Dec. 7, 1966	Margaret Ann Perucica	Margaret Perry	Butte
Dec. 7, 1966	George Perucica	George Perry	Butte
Dec. 8, 1966	Lawrence Allan Bastron	Lawrence Allan Randall	Missoula County
Dec. 27, 1966	Barry I. Hurwitz	Barry Hurwitz Dayton	Bozeman
Dec. 29, 1966	Kenneth Charles Gunderson	Kenneth Charles Mosbarger	Flathead County Flathead County
Dec. 30, 1966	P. Julene Bush Hamby	Cynthia Ann Hamby	Victor
Dec. 30, 1966	Helen M. Oster	Helen M. Sateren	Miles City, now Richwood, Ohio

HeinOnline -- 1967 vol. II 1327 1967

HeinOnline -- 1967 vol. II 1328 1967

APPENDIX

HeinOnline -- 1967 vol. II 1329 1967

HeinOnline -- 1967 vol. II 1330 1967

APPENDIX

The following Constitutional amendments and referendum measure adopted by the people at the general election held November 8, 1966, became effective by virtue of the governor's proclamations of December 6, 1966:

CHAPTER NO. 243

MONTANA SESSION LAWS 1965

AN ACT TO SUBMIT TO THE QUALIFIED ELECTORS OF MONTANA AN AMENDMENT TO THE CONSTITUTION OF MONTANA BY ADDING A NEW SECTION TO PROVIDE FOR THE CONTINUITY OF STATE AND LOCAL GOVERNMENTS IN A PERIOD OF EMERGENCY CAUSED BY ENEMY ATTACK NOTWITHSTANDING OTHER CONSTITUTIONAL PROVISIONS.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF MONTANA:

Section 1. A new section is added to the constitution of the state of Montana to read as follows:

"Section ..... The legislative assembly in order to insure continuity of state and local governmental operations in a period of emergency resulting from a disaster caused by enemy attack may enact laws:

(1) To provide for prompt and temporary succession to the powers and duties of elected and appointed public officers who are killed or incapacitated.

(2) To adopt other measures that may be necessary to insure the continuity of governmental operations.

Such laws shall be effective only during the emergency that affects a particular office or governmental operation, and such laws may deviate from other provisions of the Montana constiution, including but not limited to the following sections:

(1) Section 3, Article X, seat of state government.

(2) Section 2, Article XVI, seat of county governments.

(3) Section 16, Article VII, succession to governor.

(4) Section 4, Article XVI, vacancy on board of county commissioners.

(5) Section 6, Article XVI, other vacancies in county government.

HeinOnline -- 1967 vol. II 1331 1967

(6) Section 45, Article V, vacancies in legislative assembly.

(7) Section 11, Article VII, special legislative sessions.

(8) Section 5, Article V, length of legislative session.

(9) Section 10, Article V, quorum to do business in each house.

(10) Section 6, Article XIX, location of county offices.

(11) Section 1, Article VII, duties of executive officers of state.

(12) Section 7, Article VII, appointments by governer."

Section 2. When this amendment is submitted to the electors of the state of Montana as provided by law, there shall be printed on the ballot the full title and the first section of this act and the following words:

"☐ For the above amendment.

☐ Against the above amendment."

Approved: March 9, 1965.

CHAPTER NO. 264

MONTANA SESSION LAWS 1965

AN ACT SUBMITTING TO THE ELECTORATE AT THE NOVEMBER 1966 GENERAL ELECTION THE QUESTION OF WHETHER OR NOT A TOBACCO TAX SHOULD BE LEVIED FOR THE PURPOSE OF FINANCING THE COST OF CONSTRUCTING AND REMODELING STATE BUILDINGS.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF MONTANA:

Section 1. Upon the approval of the electors of this state, to be determined by their vote at the general election to be held in November of 1966, the three cents (3¢) per package cigarette tax authorized by Section 84-5606, Subdivisions 3 and 4, R.C.M. 1947, and a tax in an amount to be fixed by law on all other tobacco products may be levied and collected for the purpose of financing the cost of constructing and remodeling state buildings.

Section 2. This referendum shall bet submitted to the electors on an official ballot which shall contain the title of this act and the number of the referendum. The question shall be presented in substantially the following form:

☐ For Referendum Measure No. .....

☐ Against Refenedum Measure No. .....

Approved: March 9, 1965.

HeinOnline -- 1967 vol. II 1332 1967

CHAPTER NO. 273

MONTANA SESSION LAWS 1965

AN ACT TO SUBMIT TO THE QUALIFIED ELECTORS OF THE STATE OF MONTANA AN AMENDMENT TO THE MONTANA CONSTITUTION RELATING TO THE APPORTIONMENT OF THE LEGISLATIVE ASSEMBLY; AMENDING SECTIONS 2 AND 3, ARTICLE VI; AND REPEALING SECTIONS 4 AND 45, ARTICLE V, AND SECTIONS 4, 5 AND 6, ARTICLE VI.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF MONTANA:

Section 1. Section 2, Article VI of the constitution of the state of Montana is amended to read as follows:

"Section 2. (1) The senate and house of representatives of the legislative assembly each shall be apportioned on the basis of population.

(2) The legislative assembly following each census made by the authority of the United States, shall revise and adjust the apportionment for representatives and senators on the basis of such census.

(3) At such time as the constitution of the United States is amended or interpreted to permit apportionment of one house of a state legislative assembly on factors other than population, the senate of the legislative assembly shall be apportioned on the basis of one senator for each county."

Section 2. Section 3, Article VI of the constitution of the state of Montana is amended to read as follows:

"Section 3. Senatorial and representative districts may be altered from time to time as public convenience may require. When a senatorial or representative district shall be composed of two or more counties, they shall be contiguous, and the districts as compact as may be."

Section 3. Sections 4 and 45, Article V, and Sections 4, 5 and 6 of Article VI of the constitution of the state of Montana are repealed.

Section 4. When this amendment is submitted to the electors of Montana, there shall be printed on the ballot the title and sections 1, 2 and 3 of this act and the following words:

"☐ For the above amendment.

☐ Against the above amendment."

Approved: March 9, 1965.

HeinOnline -- 1967 vol. II 1333 1967

HeinOnline -- 1967 vol. II 1334 1967

GENERAL INDEX

NOTE:

Index of Appropriations Follows General Index

HeinOnline -- 1967 vol. II 1335 1967

HeinOnline -- 1967 vol. II 1336 1967

INDEX TO TEXT

A

	Sec.	Page
ABANDONED PROPERTY		
Reports of, by whom, when, forms	Ch. 21	53
Reports, money orders, travelers' checks	Ch. 226	645
ADJUTANT GENERAL		
Assistant, salary	2	698
Salary	5	697
AGING		
Name of committee changed	Ch. 12	25
AGRICULTURE		
Commissioner, salary	1	695
See Wheat Research and Marketing Act	Ch. 314	1105
AIR POLLUTION		
Clean Air Act	Ch. 313	1090
administration, state board of health	4	1091
classification of contaminant sources, reporting	7	1095
definitions	3	1090
emergency procedure	12	1098
emissions prohibited	10	1096
hearings on rulings, notice, judicial review	14	1099
inspections by board, access to premises, reports of findings	9	1096
limitations on board	19	1104
local air pollution control programs	16	1101
permits for equipment causing pollution	8	1095
policy and purpose	2	1090
powers of board	6	1093
records, confidential	15	1101
state and federal aid	17	1103
taxation, classification of property used in pollution control	20	1104
variances, application for exemption	13	1098
violations, enforcement	11	1097
violations, penalties	18	1103
AMBULANCE SERVICE		
Contracting for by counties, cities, towns	Ch. 162	292
ARCHITECTS		
Annual fee of licensed architects	3	249
Compensation and time schedule for payment on public buildings	Ch. 131	232
Compensation of members of board	2	248
Fees payable by applicants for examination, disposition	1	248
Revocation of license, unprofessional conduct	4	249
ARTS		
See Montana Arts Council	Ch. 2	4
ASSIGNMENTS		
Regulation of against monies due from the State of Montana	Ch. 44	90
ATTACHMENT		
Undertaking required	Ch. 303	1042
ATTORNEY GENERAL		
Actions for dissolution of corporations	52, 88	563, 995
Counsel for water pollution control council	136	506

HeinOnline -- 1967 vol. II 1337 1967

	Sec.	Page
Criminal investigator, position established	Ch. 176	312
Law enforcement teletypewriter communications system	Ch. 1	1225
Legal adviser to state board of health	11	472
AUTOPSIES		
See Coroner, Office of		375
See State Board of Health	155 et seq.	512
AVIATION		
Certification and regulation of intrastate air carriers	Ch. 171	301
Insurance required of commercial air operators	Ch. 122	217

B

BANKS AND BANKING		
Assessment and taxation in each county where office located	Ch. 72	129
Borrowing money for capital purposes, status of capital	Ch. 11	24
Certificates of deposit, included as joint deposits with right of survivorship	Ch. 91	171
Corporation license tax, state banks exempt	Ch. 316	1115
Reserve requirements	Ch. 6	19
BEER		
Retailers' interior signs, permitted size	Ch. 49	97
BOARDS		
See State Boards		
BODIES		
Disposition by written instrument for education or research	Ch. 22	55
BOILERS		
Advisory committee on boiler rules	1	146
Exemptions from provisions of Act	4	150
Fees for inspection or examination	3	148
Inspection of	2	147
BUSINESS TRUSTS		
Authorized, filings, taxation	Ch. 277	832

C

CERTIFIED MAIL		
Use where notification by registered mail required	Ch. 5	19
CHILDREN		
Age for admission and attendance at school for deaf and blind	Ch. 282	845
Commitment of child who could be judged delinquent, where	Ch. 134	236
Handicapped		
census of	Ch. 153	273
special education classes, four or more	Ch. 163	292
special education classes, under six years	Ch. 164	295
See Department of Institutions		
See Juveniles		
CHIROPRACTIC		
Licensing, acceptance of examination of national board	Ch. 36	78

HeinOnline -- 1967 vol. II 1338 1967

	Sec.	Page
CIGARETTES		
Cost to wholesaler, to retailer, defined	Ch. 130	229
Tax for long-range building program	Ch. 318	1121
Tax for long-range building program, referendum adopted		1332
CITIES AND TOWNS		
Aldermen, qualifications for	Ch. 144	261
Ambulance service, contracting for	Ch. 162	292
Censuses used for allocation of motor vehicle license fees for city road fund	Ch. 89	169
City attorney, salary fixed by ordinance	Ch. 155	275
City clerk, salary fixed by ordinance	Ch. 156	275
City treasurer, salary fixed by ordinance	Ch. 189	332
Curbs, gutters, construction authorized	Ch. 157	276
Emergencies, two-mill levy authorized for	Ch. 97	176
Extraordinary levies to pay bonded indebtedness and judgments authorized	Ch. 145	261
Firemen, cities of first and second class, minimum compensation	Ch. 267	807
Gasoline license tax allocation	2	1244
Mayors and aldermen, salaries	Ch. 224	640
Multiple use water projects authorized	Ch. 284	848
Ordinances, proposal by petition of 15% of voters	Ch. 126	224
Parks, extension of boundaries to include land platted for	Ch. 281	842
Pedestrian malls, establishment of, off-street parking	Ch. 136	238
Percentage of voters for submission of ordinance to electors	Ch. 94	174
Police judges, salary fixed by ordinance	Ch. 186	326
Policemen, cities of first and second class, salaries	Ch. 266	806
Purchase of surety bonds for city and town officers and employees	Ch. 67	119
Share of judgments obtained on appeal from police courts	Ch. 32	72
Soil and water conservation districts, authorized to join	Ch. 146	262
Technical codes, adoption by reference	Ch. 38	80
See Legislative Audit Act	Ch. 249	743
CITY-COUNTY BUILDING		
Offices of city and county government	Ch. 45	91
CITY-COUNTY GOVERNMENT		
Commissioners, compensation and mileage	Ch. 79	155
Contracts, letting without bids, amount	Ch. 80	155
Tax levy for current expenses, limitation	1	156
Tax levy for special services	2	156
CIVIL DEFENSE AGENCY		
Director, salary	7	700
CIVIL PROCEDURE		
Depositions in justice courts according to	Ch. 167	299
Service of summons in justice courts according to	Ch. 110	200
Undertaking required on attachment	Ch. 303	1042
CLEAN AIR ACT OF MONTANA		
See Air Pollution	Ch. 313	1090
CLOSE PURSUIT, UNIFORM ACT ON	95-619	370
COAL		
Strip mining, license tax	Ch. 244	732
Strip mining, reclamation of land, credits	Ch. 245	734
Term for leases on state lands	Ch. 121	217
CONGRESSIONAL DISTRICTS		
Boundaries defined	Ch. 124	222
CONSTABLES		
Fees, salaries	Ch. 278	835

HeinOnline -- 1967 vol. II 1339 1967

INDEX

	Sec.	Page
CONSTITUTIONAL AMENDMENTS ADOPTED		
Continuity in state government, post-enemy attack		1331
Tobacco tax, long-range building program		1332
CONSTITUTIONAL AMENDMENTS PROPOSED		
Legislative sessions, eighty day	Ch. 248	742
Number of proposed amendments to be submitted in one election	Ch. 315	1114
Public officers, increase in salary during term	Ch. 154	274
CONTINUITY IN STATE GOVERNMENT		
Constitutional amendment adopted		1331
Post-enemy attack	Ch. 268	808
CONTRACTORS		
Public		
assessment of license fee of 1% of gross receipts of public contracts	Ch. 195	349
determination of "resident" for licensing	Ch. 217	625
time within which materialmen supplying subcontractor to give notice, certified mail	Ch. 115	204
working overtime on previous contract, prohibited from bidding	Ch. 141	254
Refunds or sharing costs of bidding, unlawful	Ch. 102	183
CONTROLLER, STATE		
Governor's office, renovation		1324
See Legislative Audit Act	Ch. 249	743
CORONERS		
See Criminal Procedure		375
CORPORATIONS		
Business trusts authorized	Ch. 277	832
Civil remedies of purchasers of securities sold in violation of Securities Act	Ch. 213	615
License tax increase	Ch. 4	1239
License tax, state banks exempt	Ch. 316	1115
Montana Business Corporation Act	Ch. 300	927
actions by shareholders or directors without meeting	134	1020
actions by shareholders, provisions relating to	43	957
annual reports, domestic and foreign corporations, filing	119	1013
annual reports, required	118	1011
application of act to existing corporations	136	1020
application of act to foreign and interstate commerce	137	1027
articles of amendment, contents	55	965
articles of amendment, filing	56	966
articles of incorporation		
amendment in reorganiation proceedings	59	968
class voting on amendments	54	964
contents	48	959
procedure to amend	53	963
restated	58	966
right to amend	52	961
articles of merger or consolidation, merger of subsidiary corporation	68	977
assessments, amounts, regulations	136	1022
assets, sale in regular course of business	71	981
assets, sale other than in regular course of business	72	981
books and records kept	46	958
bylaws	25	945
certificate of amendment, effect of	57	966
certificate of incorporation, effect of issuance	50	961
certificates and certified copies as evidence	130	1019
certificates representing shares	21	943
closing of transfer books and fixing record date	28	946
consolidation, approval of shareholders	67	976

HeinOnline -- 1967 vol. II 1340 1967

INDEX

	Sec.	Page
consolidation, procedure for	66	975
corporate name	7	933
creditors' claims, filing in liquidation proceedings	93	998
definitions	2	928
directors		
classification of	35	950
number and election	34	950
organization meeting	51	961
place and notice of meetings	39	952
qualifications	33	950
quorum of	37	951
removal of, vacancies	36	951
dissolution		
deposit with state treasurer of amounts due unknown shareholders	97	999
effect of statement of intent	79	990
survival of remedy after	98	1000
dissolution, involuntary		
decree of	95	999
filing decree of	96	999
notification to attorney general by secretary of state	88	995
venue and process	89	995
when	87	994
dissolution, voluntary		
articles of, filing	86	994
articles of, tax clearance certificate	85	993
by act of corporation	77	988
by consent of shareholders	76	988
by incorporators	75	987
effect of statement of revocation	84	992
filing of statement of intent	78	989
filing of statement of revocation	83	992
procedure after filing statement of intent	80	990
revocation of by act of corporation	82	991
revocation by consent of stockholders	81	990
distribution from capital surplus	41	954
dividends, declaration and payment	40	953
executive and other committees	38	952
existing corporations, application of Act	136	1020
expenses of organization, reorganization, financing	20	943
fees and charges collected by secretary of state	120	1013
fees for filing documents and issuing certificates	121	1013
fees of secretary of state, corporate papers excepted	141	1028
fees, license, payable by domestic corporations	123	1015
fees, miscellaneous charges	122	1015
foreign corporations		
admission	99	1001
annual reports, filing	118	1011
annual reports, required	118	1011
application of Act to those heretofore authorized to transact business in state	116	1010
articles of incorporation, amendment	109	1006
certificate of authority, amended	111	1007
certificate of authority, contents	103	1003
certificate of authority, effect of	105	1005
certificate of authority, filing of	104	1004
certificate of authority, revocation of	114	1009
certificate of authority, transacting business without	117	1010
certificate of revocation	115	1010
change of name	102	1003
corporate name	101	1002
license fees payable by	124	1016
merger	110	1006

HeinOnline -- 1967 vol. II 1341 1967

	Sec.	Page
powers	100	1002
registered office and registered agent	106	1005
registered office and registered agent, change of	107	1005
service of process on	108	1006
withdrawal, filing of application for	113	1008
withdrawal from state authorized	112	1007
forms, prescribed by secretary of state	131	1019
fractional shares or scrip, issuance of	22	944
general powers of corporations	4	930
incorporators who may act	47	959
liability of directors in certain cases	42	955
liability of subscribers and shareholders	23	945
liquidation of assets		
discontinuance of proceedings	94	999
filing of claims in	93	998
jurisdiction of court, when	90	996
procedure in court	91	997
receivers, qualifications	92	998
meetings of shareholders	26	945
meetings of shareholders, notice of	27	946
merger, approval of shareholders	67	976
merger, procedure for	65	975
merger or consolidation, articles, merger of subsidiary corporation	68	977
merger or consolidation, domestic and foreign corporations	70	980
merger or consolidation, effect of	69	979
officers, election of	44	957
officers, removal of	45	958
penalties imposed on corporations	125	1017
penalties imposed on officers and directors	126	1017
purposes of Act	3	929
reacquired shares, cancellation of	62	971
receivers, appointment of	142	1029
receivers, qualifications	92	998
redeemable shares, cancellation by redemption or purchase	61	970
redeemable shares, restriction on redemption or purchase	60	970
registered name	9	934
registered name, renewal of	10	935
registered office and agent	11	935
registered office and agent, change of	12	936
repeal of prior acts, effect of	139	1027
reservation of power in legislative assembly	138	1027
reserved name	8	934
right to acquire and dispose of its own shares	5	932
scrip, issuance of	22	944
secretary of state		
appeal from	129	1018
forms prescribed by	131	1019
notifying attorney general of corporation's failure to file annual reports	88	995
notifying corporation of expiration of existence	128	1018
powers and authority in administering the Act	127	1018
service of process on	13	937
shareholders' pre-emptive rights	24	945
shareholders, right to dissent	73	982
shareholders, rights of dissenting	74	983
shares		
authorized	14	937
consideration for	17	940
payment for, stock rights and options	18	941
preferred or special classes, issued in series	15	938
subscriptions for	16	940
stated capital, determination of amount	19	942

HeinOnline -- 1967 vol. II 1342 1967

	Sec.	Page
stated capital, reduction of in certain cases	63	972
surplus and reserves, special provisions relating to	64	974
stockholders, quorum of	30	947
survival of remedy after dissolution	98	1000
tax clearance certificate on voluntary dissolution	85	993
ultra vires, defense of	6	933
unauthorized assumption of corporate powers	135	1020
voting of shares	31	948
voting list	29	947
voting requirements, articles to control	132	1019
voting trust	32	949
waiver of notice	133	1019
Montana Nonprofit Corporation Act	Ch. 198	533
action by members or directors without meeting	93	584
annual reports, filing	82	579
annual reports, required	81	579
applicability of Act, to what corporations	3	535
articles of amendment, contents	35	550
articles of amendment, filing, effectiveness	36	551
articles of incorporation		
contents	29	548
filing	30	549
procedure to amend	34	550
right to amend	33	550
books and records, keeping of	25	547
bylaws	12	542
certificate of incorporation, effect of issuance	31	549
certificates and certified copies to be received in evidence	89	583
committees, authority	21	545
consolidation, procedure for	39	553
corporate name	7	539
definitions	2	534
directors		
meetings, place and notice of	22	546
number and election	18	544
qualifications	17	544
quorum	20	545
vacancies	19	545
dissolution		
deposit of assets of unknown persons with state treasurer	61	568
survival of remedy after	62	569
dissolution, involuntary		
decree of	59	568
filing of decree	60	568
notification by secretary of state to attorney general for	52	563
venue and process	53	564
when	51	563
dissolution, voluntary		
articles of	49	561
filing of articles of	50	562
procedure	45	559
revocation of proceedings	48	561
distribution of assets, in process of dissolution	46	559
distribution of assets, plan of	47	560
fees for filing documents and issuing certificates	83	580
foreign corporations		
admission	63	569
amended certificates of authority	75	575
amendment of articles of incorporation	73	574
application for certificate of authority	67	571
change of name by	66	571

HeinOnline -- 1967 vol. II 1343 1967

	Sec.	Page
conducting affairs without certificate of authority	80	578
effect of certificate of authority	69	572
filing of application for certificate of authority	68	572
filing of application for withdrawal	77	576
issuance of certificate of revocation	79	577
merger of	74	575
powers of	64	570
registered office and registered agent	70	573
registered office and registered agent, change of	71	573
revocation of certificate of authority	78	577
service of process on	72	574
withdrawal, procedure	76	575
forms, prescribed by secretary of state	90	583
general powers	5	536
incorporators	28	548
liquidation of assets		
by court, procedure	55	566
discontinuance of proceedings	58	568
filing of claims	57	567
jurisdiction of court	54	565
loans to directors and officers prohibited	27	548
meetings of members	13	542
meetings of members, notice of	14	542
members, classes of	11	541
merger or consolidation		
approval of	40	554
articles of	41	554
effect of	42	555
of domestic and foreign corporations	43	557
merger, procedure for	38	553
miscellaneous charges	84	581
officers	23	546
officers, removal of	24	547
organizational meetings	32	549
penalties imposed upon corporations	85	581
penalties imposed upon directors and officers	86	581
purposes	4	535
quorum	16	543
receivers, qualifications of	56	567
registered office and registered agent	8	540
registered office and registered agent, change of	9	540
reservation of powers in legislature	95	584
restated articles of incorporation	37	551
sale, lease, exchange, or mortgage of assets	44	558
secretary of state		
appeal from	88	582
forms prescribed by	90	583
notifying attorney general of corporation's failure to file annual reports	52	563
powers of	87	582
service of process upon	11	541
shares of stock and dividends prohibited	26	547
ultra vires, defense of	6	538
unauthorized assumption of corporate power	94	584
voting	15	543
voting requirements, not more than required by Act	91	583
waiver of notice equivalent to giving of such notice	92	583
Montana Religious Corporation Sole Act	Ch. 301	1030
annual report	9	1035
application of Act	2	1031
articles of incorporation		
amendment	10	1036

HeinOnline -- 1967 vol. II 1344 1967

	Sec.	Page
contents	4	1031
effect of issuance of	5	1032
board of advisers or consultors, interim powers	8	1035
creation, when	3	1031
powers	6	1032
succession	7	1035
unauthorized assumption of corporate powers	11	1036
Offenses committed by corporations, procedure	§ 95-615	368
Release of lien with respect to license tax liability	53	101
Reviver after suspension or forfeiture	Ch. 52	100
Taxation, for long-range building program sinking fund account	Ch. 318	1121
COSMETICS		
Food, drug and cosmetic Act	Ch. 307	1049
COSMETOLOGY		
Compensation for members of board	Ch. 133	235
Teachers' licenses, requirements	Ch. 132	234
COUNCIL ON NATURAL RESOURCES AND DEVELOPMENT		
Composition	Ch. 230	675
COUNTIES		
Ambulance service, contracting for	Ch. 162	292
Clerks, membership in organizations	Ch. 64	116
Clerks, traveling expenses attending conventions	Ch. 66	117
Commissioners		
compensation and mileage	Ch. 223	638
election of mileage or expenses	Ch. 56	108
per diem for inspecting roads	Ch. 178	317
Constables, fees, salaries	Ch. 278	835
Drivers' license fees, retention of 5%	Ch. 23	56
Emergencies, two-mill levy authorized for	Ch. 97	176
Gasoline license tax allocation	2	1244
General road tax, permissive levy increased	Ch. 83	159
Levy for current expenses, 20 mills	Ch. 128	228
Multiple use water projects authorized	Ch. 284	848
Naturalization fees, collection and deposit	Ch. 73	130
Parks, board of commissioners, authorized, powers and duties	Ch. 306	1045
Poor fund, poll tax eliminated, poor fund levy increased	Ch. 69	122
Printing commission established	Ch. 280	839
Prisoners, medical expense, proceedings to collect, when	Ch. 203	590
Purchase of surety bonds for county officers and employees	Ch. 68	120
Reimbursement because of tax exempt status of state owned land	Ch. 235	692
Salaries of officers	Ch. 231	676
Sale of property, values of real and personal without publication of notice	Ch. 120	214
Sewer rates, charges and rentals, authorized, procedure for	Ch. 202	588
Sheriffs, deputies, qualifications for, discharge	Ch. 257	770
Surveyors, duties, road superintendent	Ch. 274	826
Surveyors, per diem for inspecting roads	Ch. 178	317
Veterans, burial of deceased servicemen and women	Ch. 310	1082
Water and/or sewer districts authorized, procedure	Ch. 263	783
See Legislative Audit Act		
COURTS		
District		
court reporters' salaries	Ch. 221	633
salary increases, judges	Ch. 308	1080
Fees collected by clerks of district and supreme court, increase, disposition	Ch. 218	626
Jurisdiction		355
Justices'		

HeinOnline -- 1967 vol. II 1345 1967

	Sec.	Page
depositions, according to Montana Rules of Civil Procedure	Ch. 167	299
pleadings allowed in	Ch. 168	299
service of summons according to Montana Rules of Civil Procedure	Ch. 110	200
travel expenses for attending conventions	Ch. 174	309
Police courts, jurisdiction	Ch. 93	173
Supreme		
publication of reports of decisions	Ch. 305	1044
rule-making in criminal cases	Ch. 193	339
salary increases, justices	Ch. 308	1080
supervision and control of publication of Revised Codes	Ch. 304	1043
See Judges, Retirement System	Ch. 289	876
CREDIT UNIONS		
Examination of by representatives of Montana Credit Union League	Ch. 152	272
CRIMINAL INVESTIGATOR		
Position established	Ch. 176	312
CRIMINAL LAW		
Supreme Court authorized to regulate practice by rules	Ch. 193	339
CRIMINAL PROCEDURE, MONTANA CODE OF	Ch. 196	353
Appeal by state and defendant		
amicus curiae, brief of	95-2417	449
appendix to briefs, contents, arrangement	95-2418	450
application of chapter, exclusive method of review	95-2401	439
briefs, amicus curiae	95-2417	449
briefs, appendix, contents, arrangement, exhibits	95-2418	450
briefs, other papers, form of, requirements	95-2420	451
briefs, enumerated, requirements	95-2416	448
briefs, filing and service, time, number of copies, failure to file	95-2419	451
briefs, submissions on, failure to file	95-2421	453
briefs, typewritten, in forma pauperis	95-2420	451
calendar of supreme court, when causes placed on, setting for argument	95-2424	454
counsel, non-appearance, failure to file briefs	95-2421	453
court reporter, to certify correctness of transcript	95-2408	442
determination of appeal, alternatives of court	95-2426	455
dismissal, effect of	95-2411	446
dismissal, failure of appellant to cause timely transmission or to docket appeal	95-2410	446
docketing, filing of record, dismissal	95-2410	445
errors on appeal, substantial and insubstantial	95-2425	455
exhibits, filed in separate volume	95-2418	451
exhibits, other than documents, placing in court room, removal	95-2421	453
filing and service of briefs	95-2419	451
filing and service, how accomplished	95-2413	446
indigent appeals, petition for transcript	95-2428	455
joint defendants, appeal by one	95-2429	456
jurisdiction, termination in supreme court, issuance of mandate and return of record	95-2427	455
motions, use as application for order or other relief	95-2415	447
notice of appeal	95-2405	440
notice of orders and judgments by clerk of supreme court	95-2422	454
oral argument, notice, postponement, time, order and content, non-appearance of counsel, failure to file briefs, submission on briefs, use of physical exhibits	95-2421	453
orders and judgments of supreme court, entry and notice	95-2422	454
petitions for rehearing	95-2423	454
prejudicial error, reversal for	95-2412	446
procedure, notice, contents and service	95-2405	440
record on appeal, agreed statement as	95-2408	443

HeinOnline -- 1967 vol. II 1346 1967

	Sec.	Page
record on appeal, composition	95-2408	441
record on appeal, correction or modification	95-2408	443
record on appeal, filing	95-2410	445
record on appeal, retention in district court by order of court	95-2409	445
record on appeal, retention by stipulation of parties	95-2409	445
record on appeal, transmission, duty of clerk	95-2409	444
record on appeal, transmission, time for, duty of appellant	95-2409	443
record on appeal, transmission, time, extension or reduction of	95-2409	444
records, withdrawal from clerk's office	95-2424	454
reversal of judgment, discharge of defendant	95-2430	456
review by supreme court, substantial rights of parties	95-2412	446
rules for briefs, appendices, motions and other papers	95-2420	451
scope of appeal, by defendant	95-2404	440
scope of appeal, by state	95-2403	439
service of papers, see filing and service	95-2413	446
state, effect of appeal by	95-2407	441
statement of evidence or proceedings, when	95-2408	442
stay of execution and relief pending appeal	95-2406	441
suspension of rules by supreme court	95-2402	439
time, computation and extension	95-2414	447
time, service by mail, additional time after	95-2414	447
transcript of proceedings, duty of appellant to order, notice to respondent if partial transcript ordered, cost of	95-2408	441
Appellate review of legal sentences		
decision upon, alternatives, effect	95-2503	457
procedure for review	95-2502	457
review division of supreme court, composition, meetings	95-2501	456
scope of Act, persons serving sentences on effective date	95-2504	458
Arraignment of defendant		
bringing defendant into court	95-1604	400
defined	95-1601	400
irregularity of	95-1608	402
joint defendants	95-1605	401
place of	95-1602	400
presence of defendant	95-1603	400
procedure on arraignment	95-1606	401
time allowed to answer	95-1607	402
Arrest		
bail, failure to comply with conditions of	95-1107	382
close pursuit, power of arrest of officers of another state	95-619	370
corporations, offenses committed by	95-615	368
definitions	95-601	364
exempt from arrest, persons	95-616	369
magistrate may order arrest	95-617	369
method of	95-602	364
notice to appear	95-614	368
peace officer, arrest by	95-608	366
peace officer, assisting	95-609	367
private person, arrest by	95-611	367
release by officer of person arrested	95-610	367
road blocks	95-618	369
summons, effect of not answering	95-613	368
summons, when may be issued	95-612	367
time of making arrest	95-607	366
warrant, arrest with	95-604	366
warrant, arrest without	95-606	366
warrant defective, procedure when	95-605	366
warrant, issuance and service upon complaint	95-603	364
Bail		
amount, determining factors	95-1110	382

HeinOnline -- 1967 vol. II 1347 1967

	Sec.	Page
bail after conviction	95-1109	382
bailable offenses	95-1108	382
conditions of	95-1118	386
conditions of, when performed, when not performed	95-1116	385
disposition on judgment and execution	95-1117	385
guaranteed arrest bond certificates, sureties for, filing of undertaking	95-1121	387
furnishing, methods of	95-1112	383
giving before another court or judge	95-1105	381
justification by sureties	95-1114	384
minor offenses, setting and accepting bail in	95-1103	381
motor vehicle violations, posting guaranteed arrest bond certificate in lieu of cash	95-1122	388
new trial	95-1119	387
persons prohibited from furnishing	95-1120	387
purpose of	95-1101	380
qualifications of	95-1113	383
reduction, increase, revocation or substitution	95-1111	383
release on own recognizance	95-1106	381
sureties, certification of names, withdrawal	95-1123	388
surrender of defendant	95-1115	384
warrant of arrest, failure to comply with conditions of	95-1107	382
warrant of arrest, setting and accepting bail under	95-1104	381
who may admit to	95-1102	380
writ of habeas corpus for	95-2702	460
Charging an offense		
amending the charge	95-1505	399
charge, form of	95-1503	397
joinder of offenses and defendants	95-1504	398
prior conviction	95-1506	400
prosecution, commencement of	95-1502	397
prosecution, methods of	95-1501	397
Competency of accused		
access to defendant by psychiatrist	95-507	361
acquittal on ground of mental disease or defect, legal effect of	95-508	362
affirmative defense, mental disease as, notice, verdict, judgment	95-503	358
commitment on ground of mental disease	95-508	362
determination of irresponsibility on basis of psychiatric report	95-507	361
evidence of mental disease admissible, when	95-502	358
evidence inadmissible, statements on examination, except on issue of mental condition	95-509	363
examination, psychiatric	95-505	358
expert testimony, psychiatrist, form of	95-507	361
fitness to proceed, determination of, finding of unfitness, fitness regained	95-506	360
fitness to proceed, mental disease or defect excluding	95-504	358
mental disease or defect excluding responsibility	95-501	357
release or discharge after commitment on ground of mental disease, recommitment	95-508	362
Complaint		
See Charging an offense		397
Coroner, the office of		
assistance, furnished by counties	95-814	378
autopsy, when	95-802	376
inquests, held when	95-803	376
inquests, public	95-809	377
inquests, register to be kept	95-811	378
jurisdiction of	95-812	378
jurors to be sworn	95-804	376
mortuaries, liability	95-813	378
office of coroner, duties	95-801	375
physicians, liability	95-813	378

HeinOnline -- 1967 vol. II 1348 1967

INDEX

	Sec.	Page
property found on body, to whom delivered	95-810	377
testimony of witnesses in writing, where filed	95-808	377
verdict of jury in writing, contents	95-807	377
witness compelled to attend	95-806	377
witnesses to be subpoenaed	95-805	377
Counsel, right to		
appointment after trial	95-1004	380
appointment, duration	95-1003	380
defendant to be informed of	95-902, 95-1001	379
public defender's office	95-1006	380
remuneration of appointed counsel	95-1005	380
waiver by defendant	95-1002	379
Definitions	95-201-95-211	354
Effective date	3	466
Evidence, production and suppression of		
depositions, notice of taking, how taken, filing, use, objections to admissibility, presence of defendant, when	95-1802	407
discovery, inspection, notice, list of witnesses	95-1803	408
motion to produce confession or admission	95-1804	410
motion to suppress confession or admission	95-1805	410
motion to supppress evidence illegally seized	95-1806	411
subpoenas, indigent defendants, expenses of witnesses, service, place of	95-1801	405
witnesses, list of to be furnished	95-1803	408
Execution of sentence		
commitment of defendant	95-2301	430
execution of a fine	95-2302	430
execution of death	95-2303	430
judgment of death, execution by sheriff, proceedings on finding lack of mental fitness	95-2305	431
judgment of death, proceedings upon finding of pregnancy	95-2307	432
judgment of death, proceedings when female claimed to be pregnant	95-2306	432
lack of mental fitness of defendant, after judgment of death	95-2304	431
stay of execution and relief pending appeal	95-2406	441
western interstate corrections compact	95-2308	432
Grand jury		
advice, when and from whom, who may be present during sessions	95-1406	394
challenge of jury or jurors, grounds, replacement of juror	95-1402	392
charge by court	95-1404	393
evidence, reception of	95-1408	396
foreman, powers and duties	95-1403	392
indictment, finding and presentment	95-1410	396
indictment, motion to dismiss, grounds	95-1402	392
interpreter for	95-1406	394
powers and duties	95-1405	393
secrecy of proceedings and disclosure	95-1409	396
summoning	95-1401	392
transcript of testimony	95-1406	395
witnesses, subpoena, issuance	95-1407	395
Habeas corpus		
appeals from order of judgment	95-2714	463
bail, writ for purpose of	95-2702	460
depositions, taking of	95-2712	463
disposition of petitioner on finding of court	95-2713	463
evidence, production of, depositions	95-2712	463
production of person, exception for infirmity or illness	95-2710	462
return, hearing on	95-2711	462
return, what to contain	95-2709	462
technical defects, no release for	95-2716	463
writ, application for, how made	95-2703	460
writ, by whom issued and before whom returnable	95-2704	461

HeinOnline -- 1967 vol. II 1349 1967

	Sec.	Page
writ, contents	95-2707	461
writ, granting without delay	95-2705	461
writ, service of	95-2708	461
writ, refusal to obey	95-2706	461
writ, who may prosecute	95-2701	460
writ and process, issuance and service	95-2715	463
Indictment		
See Charging an offense		397
Information, leave to file and time for filing		
county attorney, not filing information, procedure	95-1303	391
leave to file	95-1301	390
time for filing	95-1302	391
See Charging an offense		397
Initial appearance of arrested person		
court, duty of	95-902	379
person who made arrest, duty	95-901	378
Insanity		
See Competency of accused		357
Judgment		
See Sentence and judgment		425
Jurisdiction		
district court	95-301	355
justice of peace courts	95-302	355
police and municipal courts	95-303	355
state criminal jurisdiction	95-304	355
Justice and police court proceedings		
appeal to district court	95-2009	424
change of place of trial	95-2003	420
docket kept	95-2002	420
execution of judgment	95-2008	423
initiation	95-2001	420
method of trial	95-2004	421
sentence and judgment	95-2007	423
trial jury, formation	95-2005	421
verdict	95-2006	422
Motions, post-trial		
alternative authority of court on hearing motion for new trial	95-2101	424
new trial, motion for	95-2101	424
Motions, pre-trial		
change of place of trial	95-1710	405
continuance, motion for	95-1708	404
defenses and objections which may be raised before trial	95-1701	402
defenses and objections which must be raised before trial	95-1702	402
determination, effect of	95-1706	403
dismissal of charge, motion of court or application of attorney prosecuting	95-1703	403
hearing on	95-1705	403
substitution of judge	95-1709	404
time of making	95-1704	403
transfer of trial on motion to dismiss	95-1707	403
Police court proceedings		
See Justice and police court proceedings		420
Post-conviction hearing		
appeal to supreme court from order entered on motion	95-2608	460
motion for relief, when may be made	95-2604	459
petition to vacate, set aside or correct sentence	95-2601	458
petition, contents	95-2603	459
petition, filing	95-2602	459
petition, proceedings on	95-2605	459
record of proceedings kept by court	95-2606	460
successive petitions, not allowed	95-2607	460

HeinOnline -- 1967 vol. II 1350 1967

INDEX

	Sec.	Page
Preliminary examination		
definition	95-1201	389
proceedings at	95-1202	389
witnesses, exclusion and separation of	95-1203	389
witnesses, recognizance by or deposition of	95-1204	390
Purpose and construction of Act	95-102	353
Scope of Act	95-101	353
Search and seizure		
authorized when	95-701, 95-717	371, 375
custody and disposition of things seized	95-713	374
detention and search of persons on premises	95-710	373
disposition of unclaimed property	95-716	375
evidence, admissible in other proceedings	95-718	375
execution of warrant, use of force in	95-709	373
legal, when	95-717	375
return of property seized	95-715	374
return to court, things seized under warrant	95-712	374
warrant, by whom served	95-707	373
warrant, filing of application	95-706	373
warrant, grounds for search	95-703	372
warrant, scope of search with	95-705	372
warrant, scope of search without	95-702	372
warrant, search, defined	95-703	372
warrant, service and execution	95-708	373
warrant, when may be executed	95-711	373
Sentence and judgment		
construction of chapter, liberal	95-2201	425
credit for incarceration prior to conviction	95-2215	429
credit for time served	95-2214	428
deferred imposition of sentence, withdrawal of guilty plea	95-2207	427
information from courts to board of pardons	95-2210	428
jail work release program	95-2216	429
judgment and judgment roll, entry	95-2209	427
judgment in writing and signed by judge, constitutes lien	95-2208	427
merger of sentences	95-2213	428
presentence investigation, contents	95-2204	425
presentence investigation, report available to defendant and others	95-2205	426
presentence investigation, required	95-2203	425
review of sentence	95-2211	428
sentence, alternatives of court	95-2206	426
sentence to be imposed by judge	95-2212	428
verdict of guilty or not guilty, judgment on	95-2202	425
See Appellate review of legal sentences		456
Trial in district court		
adjournment during absence of jury but court deemed open	95-1914	419
conduct of jury after submission of case	95-1913	418
county attorney, failure to attend	95-1903	412
discharge of defendant, when	95-1916	420
method of	95-1901	412
mistrial for absence of defendant	95-1904	413
motion to discharge jury panel	95-1908	413
order of trial	95-1910	416
order of, departure from	95-1911	418
plea of guilty, accepted when	95-1902	412
presence of defendant, mistrial for absence	95-1904	413
prosecutions, order of, defendants in custody, on bail	95-1906	413
time to prepare for after plea	95-1907	413
trial jurors, list of, qualifications, exemptions, challenges	95-1909	414
trial jury, formation of	95-1905	413
verdict, return, several defendants, conviction of lesser offense, poll of jury	95-1915	419
view of place of offense or property by jury	95-1912	418

HeinOnline -- 1967 vol. II 1351 1967

Venue	Sec.	Page
bigamy	95-410	357
county boundary, offense committed on or near	95-403	356
county, committing, aiding or abetting in offense in another county	95-404	356
county, offense committed partly in one and partly in another	95-402	356
death and cause of death in different counties	95-406	357
escape from prison	95-409	357
in transit, offenses committed while	95-405	357
kidnaping	95-411	357
outside the state, offenses commenced	95-407	357
place of trial, unless otherwise provided by law	95-401	356
stolen property	95-408	357
treason	95-412	357
Western interstate corrections compact	95-2308	432

D

DATA PROCESSING AND MAJOR OFFICE EQUIPMENT

Supervision of procurement for state agencies	Ch. 298	923

DEPARTMENT OF INSTITUTIONS

Board, powers and duties	3	1137
Boulder River school and hospital		
admission to await accommodations	27	1146
admissions, temporary	28	1146
application for admission of person by one other than parent or guardian, district court	26	1145
application for admission of person by parent or guardian	25	1145
discharge of patient	30	1147
location and function	22	1144
residence required for admittance	24	1145
superintendent to manage	23	1145
transfer of patient to other facility, notice to guardian	29	1147
Children over eighteen, not committed	13	1141
Commitment to of child who could be judged delinquent	Ch. 134	236
Commutation of sentence, children under 21, to custody of department	17	1142
Curriculums, standards in training facilities	12	1141
Director, appointment, qualifications, duties	2	1137
Division of mental hygiene	Ch. 246	737
clinics and community services	4	739
continuation of existing services	6	741
control of public mental health programs	3	739
definitions	1	737
discrimination prohibited	7	741
function of	2	738
mental health regions	5	739
Expense of committing children, transportation	15	1142
Facilities for treatment of children between ten and twenty-one	8, 9	1140
Galen state hospital		
location and primary function	5	1139
reception and evaluation center for children	20	1144
superintendent, qualifications	6	1140
transfer of patient to mental institutions, notice to guardian	7	1140
Institutions named	1	1137
Mental health and mental retardation centers, to establish	Ch. 255	768
Per diem charge, institutions subject to	4	1139
Physical examination of children before commitment, records	14	1141
Runaway children from facilities, aiding	19	1143
Runaway children, return to facility	18	1143
School for deaf and blind, ages of children for admission and attendance	Ch. 282	845

HeinOnline -- 1967 vol. II 1352 1967

		Sec.	Page
Superintendents of facilities		11	1141
Transfer of children from facility to facility, notice to guardian		16	1142
Warm Springs state hospital			
alcoholism services center		33	1148
location and function, mental hygiene division		31	1147
superintendent as supervisor of division of mental hygiene, qualifications		32	1147
Youth forest camp, program with state forester		10	1141
DIVORCE			
Waiting period before remarriage removed	Ch.	63	116
DOCUMENTS			
False designation of age or identity, penalty	Ch.	169	299
DRAG RACING			
Prohibited without permission	Ch.	100	181
DRUGS			
See Food, drug and cosmetic Act	Ch.	307	1049

E

ELECTED OFFICIALS			
Salary increases	Ch.	308	1080
ELECTIONS			
Ambulance service, petition for election for	Ch.	162	292
Cities and towns, ordinances, proposal by 15% of voters	Ch.	126	224
Constitutional amendments proposed			
legislative sessions, eighty-day	Ch.	248	742
number of proposed amendments to be submitted in one election	Ch.	315	1114
public officers, increase in salary during term	Ch.	154	274
Delegates to constitutional convention determined by legislative districts		11	348
Legislative assembly			
candidates included on ballot under State and National offices		6	346
canvass of returns, nominees removed from county abstract		5	345
certificate of nomination, where filed		3	343
members excepted from duty of county canvassing board to declare elected		8	347
members included in procedure for resolution of tie vote of judicial officers		10	348
members included in state returns		9	348
order of placement on ballot, candidates		7	347
petitions for nomination, where filed		4	343
Nomination of delegates to constitutional convention by petition of voters of legislative districts		12	349
Percentage of voters of city or town for submission of ordinance to electors	Ch.	94	174
Primary, date changed	Ch.	151	271
School extra levy, requirements to vote	Ch.	140	252
School, requirements to vote	Ch.	139	251
Vacancy in office of candidate for legislature, filling	Ch.	86	165
Voting machines, use of authorized	Ch.	220	631
ELECTRICIANS			
Time within which to obtain license without examination	Ch.	199	585
EMINENT DOMAIN			
Payment for removal of personal property under, payment of interest	Ch.	187	326
EXTRAORDINARY SESSION			1223

HeinOnline -- 1967 vol. II 1353 1967

F

	Sec.	Page
FALSE DESIGNATION OF AGE OR IDENTITY		
Penalties	Ch. 169	299
FINANCING STATEMENTS		
Requirements, indexing	Ch. 272	818
Transmitting utilities, corporations included	Ch. 279	838
FIREMEN AND FIRE DEPARTMENTS		
Compensation, cities of first and second class	Ch. 267	807
Disability and pension plan		
benefits allowed, how allowed and how paid	3	606
disability pension	6	609
payment of insurance companies' license fees by state auditor to relief associations	4	606
pensions to retired firemen	5	608
pensions to widows and orphans	7	609
source of, return of contributions upon separation from service	1	604
tax levy for fund	2	604
use of fund of relief associations	8	611
Fire protection laws		
application of Act, occupancies specified	10	671
doors on buildings accommodating public to open outward	12	674
duty of marshal, deputies, sheriffs, notice of violations	13	674
entering of buildings for purpose of examination	8	670
investigation of fires, fire loss reports	6	669
minimum standards of fire protection requirements, rules	3	668
notice of time and place of public hearings	4	668
plans for construction or alterations, inspections, enforcement	11	672
powers of state fire marshal	2	667
purpose of act, occupancies specified	9	670
special deputy marshal, acting marshal, employees	5	669
state fire marshal and fire prevention advisory committee	1	666
violations, penalty	7	670
Volunteer		
operation of pension plan by public employees' retirement system	Ch. 160	284
pension plan and compensation Act, reports of	Ch. 159	283
time for filing certificates for credit for prior service under pension plan	Ch. 161	290
FISH AND GAME		
Beaver skins, tagging	Ch. 35	75
Beaver and marten skins, tagging	Ch. 43	88
Game or fur farm permits, migratory birds excepted	Ch. 43	88
Licenses, hunting and fishing, enumerated, fees	Ch. 319	1130
Licenses, tagging instructions and penalties printed on	Ch. 165	297
Licensing laws exemptions, nonresident minors	Ch. 26	59
Resident defined for license purposes	Ch. 37	79
Resident defined for license purposes, enrollee of job corps camp	Ch. 33	72
State parks fees and charges, disposition of	Ch. 87	166
Taking of fish, snagging of certain fish, use of bow and arrow, size of nets	Ch. 34	73
Warden's retirement system, service to qualify	Ch. 111	201
FOOD, DRUG AND COSMETIC ACT	Ch. 307	1049
Acts prohibited	3	1054
Adulterated		
when cosmetic deemed to be	18	1076
when drug or device deemed to be	14	1066
when food deemed to be	10	1059
Advertising, false or misleading	20	1078

HeinOnline -- 1967 vol. II 1354 1967

	Sec.	Page
Definitions	2	1050
Drugs intended for use by man, regulation	16	1073
Hallucinogenic drugs, prohibitions	24	1080
Injunctive remedies	4	1056
Inspection, cause to premises	22	1079
Legal actions for violations, prior opportunity to explain	7	1059
Misbranded		
when cosmetic deemed to be	19	1077
when drug or device deemed to be	15	1068
when food deemed to be	11	1061
New drugs, limitations on	17	1074
Permits for marketing where food contaminated	12	1064
Probable cause, procedure if found	6	1057
Regulations for enforcement, authority to adopt regulations of Federal Act	21	1078
Regulations, promulgated by board	9	1059
Reports and information, publishing and disseminating of	23	1080
Toxic substances, regulation of quantity	13	1065
Violations, minor, warnings	8	1059
Violations, penalties	5, 25	1057, 1080
FOOD, LODGING AND ACCOMMODATIONS		
Obtaining with intent to defraud	Ch. 135	237
FOOD SERVICE ESTABLISHMENTS	Ch. 17	33
Adoption of rules by state board, cooperative agreements	10	36
Appeal by licensee after hearing	8	36
Definitions	2	33
Frozen food plant operations, effect of game laws	14	37
Investigations and inspections authorized	11	36
Liability limitation for loss in frozen food plant	12	37
Licenses		
applications	4	35
denial or cancellation	5	35
notification of denial or cancellation, hearing	6	36
Lien on property in frozen food plant	13	37
Persons with communicable disease barred	9	36
Plan for correction of violation	7	36
Violations, penalties	15	37
FORESTS AND FORESTRY		
Fire protection		
approval of 51% of owners to establish district	Ch. 149	267
classification of additional lands	Ch. 148	266
State forester		
programs in youth forest camps	10	1141
salary	9	702

G

GALEN STATE HOSPITAL		
See Department of Institutions		
GAMBLING		
Horse racing licensing	Ch. 216	622
GOVERNMENT		
Interlocal Cooperation Act	Ch. 82	157
GRASS CONSERVATION COMMISSION		
Secretary, salary	Ch. 24	57
Secretary, salary	3	696

HeinOnline -- 1967 vol. II 1355 1967

H

	Sec.	Page
HAIL, STATE BOARD OF HAIL INSURANCE		
Chairman, salary	11	703
Time within which actions against may be brought	Ch. 170	300
HIGHWAY PATROL		
Blind, information as to exemptions for, from board of equalization	Ch. 253	762
Chief, name changed from "Supervisor," salary, etc.	Ch. 173	308
Patrolmen, qualifications, salary, probationary training, tenure of office	Ch. 55	103
Retirement system, nomination of beneficiary, filing of designation with board	Ch. 107	188
HIGHWAYS AND HIGHWAY DEPARTMENT		
Administrator, office established, duties, removal	Ch. 312	1089
Beautification, federal-aid highways	Ch. 286	857
County road superintendents, surveyors	Ch. 274	826
Designation of federal-aid systems	Ch. 201	587
Drag racing prohibited without permission	Ch. 100	181
Eminent domain, payment for removal of personal property under, payment of interest	Ch. 187	326
Flagmen escorts for herding livestock on	Ch. 90	170
General road tax, permissive levy increased	Ch. 83	159
Interim committee to study		1297
Junkyard restrictions, licensing	Ch. 285	853
Littering, transportation of garbage, requirements	Ch. 309	1081
Nighttime speed limit on interstate	Ch. 190	332
Outdoor advertising	Ch. 287	858
agreements with United States	12	871
compensation for removal of signs	9	869
congressional action or nonaction, effect	14	872
declaration of policy	1	858
definitions	2	859
enforcement of Act	11	870
guarantee against loss of federal-aid funds	13	871
limitations on	3	860
permits	7	868
regulations, customary usages	6	866
removal of nonconforming signs	8	869
unlawful advertising, signs violating provisions of Act	10	870
unzoned areas	5	856
zoning, areas commercial, not commercial, rezoning, permitted uses	4	860
Tire equipment restrictions, special design for safety use	Ch. 92	172
Traffic safety program established	Ch. 177	313
See Motor Vehicles		
HISTORICAL SOCIETY		
Housing for antique Ford collection	Ch. 324	1160
HORSE RACING	Ch. 216	622
Duties of commission and licensees, license fee	1	622
Gross receipts, commission's percentage	5	625
License applications, cancellation, hearing	2	623
Parimutuel betting, other betting illegal	4	624
Public liability insurance for meets	3	624
HOTELS		
See Transient Lodging	Ch. 18	38

HeinOnline -- 1967 vol. II 1356 1967

I

	Sec.	Page
INDIANS		
Medical assistance to ward, department of public welfare as agent of Federal Government	17	1167
Number who may attend University System without fees	Ch. 129	228
Regulation of imitation arts and crafts articles	Ch. 42	87
State coordinator of Indian affairs, salary	12	703
INDUSTRIAL ACCIDENT BOARD		
Chairman, salary	15	705
Volunteer firemen's compensation Act		
operation	Ch. 160	284
reports of	Ch. 159	283
See Boilers		
INNKEEPERS		
Obtaining food, lodging and accommodations from with intent to defraud	Ch. 135	237
INSTITUTIONS		
See Department of Institutions		
INSURANCE		
Acting as agent, solicitor or adjuster without license	Ch. 256	769
Air operators, commercial, required of	Ch. 122	217
Annual statements of insurers, penalty for false statement	Ch. 27	60
Credit life or credit disability, premiums charged	Ch. 113	202
Examination reports of companies, penalty for destruction of records	Ch. 28	61
False financial statements of companies, penalty for aiding and abetting	Ch. 29	63
Farm mutual, maximum amount retained on single risk	Ch. 259	773
Group insurance for public employees	Ch. 200	585
Holding companies, control and regulation of	Ch. 269	810
Insurance policies and annuity contracts included in Uniform Gifts to Minors Act	Ch. 234	682
Schools, provision of liability insurance	Ch. 58	110
Sureties for guaranteed arrest bond certificates, filing of undertaking		387
Tax on net premiums, period extended	Ch. 71	126
See Motor Vehicles, Liability Insurance		
INTERLOCAL COOPERATION ACT		
Enacted	Ch. 82	157
INTERSTATE COMPACT ON JUVENILES		
See Juveniles	Ch. 76	134
INTERSTATE LIBRARY COMPACT		
See Libraries	Ch. 119	208
INTOXICATING BEVERAGES		
Jurisdiction of police courts over minors, beer or liquor violations	Ch. 93	173
IONIZING RADIATION	Ch. 108	188
Administration procedure and judicial review	12	196
Conflicting laws, not superseded	11	196
Declaration of policy	1	189
Definitions	3	189
Exemptions	15	197
Federal-state agreements	9	195
Impounding of materials	14	196
Inspection agreements and training programs	10	195
Inspection by board	7	194
Licensing and registration	6	192

HeinOnline -- 1967 vol. II 1357 1967

	Sec.	Page
Penalties	16	197
Prohibited uses	13	196
Purpose of Act	2	189
Radiation advisory committee	5	192
Records required to be kept	8	194
State radiation control agency	4	191

IRRIGATION DISTRICTS

Investment of surplus funds	Ch. 258	772

J

JUDGES

Montana Judges' Retirement System	Ch. 289	876
administrative expense	4	878
board, composition, public employees retirement system	3	878
contributions by members	9	880
contributions by State of Montana	10	880
definitions	1	877
disability retirement allowance	13	881
dormant accounts, transfer	27	885
exemption from taxes and execution	20	883
fraud, correction of records	23	884
involuntary retirement allowance	14	881
membership	7	879
monthly payment of allowances	19	883
nomination of beneficiary	21	883
optional retirement allowance	25	884
payments in case of death from natural cause	18	883
payments into fund, deposit	5	879
payments upon death from injury in course of employment	17	882
penalty retirement allowance, age 70	15	882
refunds, resignation or discharge	16	882
retired judges, call to service	24	884
retirement allowance	12	881
rules and regulations, actuarial data, mortality tables	6	879
service allowance	8	880
service in armed forces, option of payment	22	883
vesting of proportional retirement	11	881

See Courts

JUNKYARDS

Restrictions, licensing	Ch. 285	853

JUSTICES' COURTS

See Courts

JUVENILES

Commitment of child who could be judged delinquent to youth forest camp or department of institutions	Ch. 134	236
Interstate Compact on Juveniles	Ch. 76	134
acceptance of federal and other aid	Art. XI	143
additional procedures not precluded	6	145
administrator, appointment	2	144
compact administrators	Art. XII	143
cooperative supervision of probationers and parolees	Art. VII	140
definitions	Art. III	135
detention practices	Art. IX	142
execution of compact	Art. XIII	144
existing rights and remedies	Art. II	135
financial arrangements	4	145

HeinOnline -- 1967 vol. II 1358 1967

	Sec.	Page
findings and purpose	Art. I	134
renunciation of compact	Art. XIV	144
responsibilities of state departments, agencies and officers	5	145
responsibility for costs	Art. VIII	142
return of escapees and absconders	Art. V	138
return of runaways	Art. IV	135
supplementary agreements	Art. X	142
supplementary agreements	3	145
voluntary return procedure	Art. VI	140

L

LABOR AND INDUSTRY		
Authority of commissioner to take wage assignments	4	84
Commission to recommend changes in safety codes	Ch. 323	1158
Commissioner, salary	2	695
Enforcement of wage payment requirements	3	84
Penalty for failure to pay wages on time	1	83
Wages, when payable, employees separated from employment before payday	2	83
LAW ENFORCEMENT ACADEMY		
Sessions, acceptance and expenditure of funds	Ch. 233	680
LAW ENFORCEMENT TELETYPEWRITER COMMUNICATIONS SYSTEM		
Created	Ch. 1	1225
LEGISLATIVE ASSEMBLY		
Apportioning of House	2	342
Apportioning of Senate	1	341
Candidates included on ballot under State and National offices	6	346
Certificates of nomination, where filed	3	343
Delegates to constitutional convention		
determined by legislative districts	11	348
nomination by petition of voters of legislative districts	12	349
Duties and compensation of employees	Ch. 1	1
Filling of vacancies in either house	Ch. 179	317
Mailing of proceedings, fee for	Ch. 14	29
Members		
excepted from duty of county canvassing board to declare elected	8	347
included in procedure for resolution of tie vote of judicial officers	10	348
included in state returns of elections	9	348
Nominees, removed from abstract of votes for county and precinct offices	5	345
Order of placement on ballot, candidates	7	347
Petitions for nomination, where filed	4	343
Proposed constitutional amendment for 80-day sessions	Ch. 248	742
Vacancy in office of candidate, filling	Ch. 86	165
LEGISLATIVE AUDIT ACT	Ch. 249	743
Audit charge against earmarked money	13	746
Audit standards and objectives	9	745
Auditor		
appointment and qualifications of	5	744
assistance to legislative assembly	11	746
duties	8	745
recommendations of	10	746
term and removal	7	744
Committee, appointment, terms, officers	3	744

HeinOnline -- 1967 vol. II 1359 1967

	Sec.	Page
Definitions	2	743
Employees, appointment of	6	744
Laws applicable to examinations	17	750
Liquor control board, disposition of revenue	20	752
Liquor control board, balance sheet, profit and loss statement to controller	21	752
Meetings of committee	4	744
Public welfare department, records and reports	19	751
Special examinations and fees	22	752
State agencies, information from	12	746
State controller, uniform accounting system	18	750
State examiner		
access to accounts of public officers	16	749
duties	14	747
power to examine books and papers	15	749
LIBRARIES		
Interstate Library Compact	Ch. 119	208
appropriations and aid	Art. IX	213
approval of library agreements	Art. VII	212
compact administrator	Art. X	213
construction and severability	Art. XII	214
definitions	Art. II	209
entry into force and withdrawal	Art. XI	213
interstate library districts	Art. III	209
interstate library districts, governing board	Art. IV	210
library agreements	Art. VI	211
other laws applicable	Art. VIII	213
policy and purpose	Art. I	208
state library agencies, cooperative programs	Art. V	211
Public, establishment in counties and cities	Ch. 260	774
State library, publications distribution center	Ch. 261	779
LIENS		
Uniform Federal Tax Lien Registration Act	Ch. 228	663
LIQUOR CONTROL BOARD		
Salaries of administrator and employees	Ch. 265	805
See Legislative Audit Act	Ch. 249	743
LIVESTOCK		
Cattle protective districts		
discontinuance of committees	2	591
discontinuance of districts	3	591
removal of area from	1	590
Flagmen escorts for herding on highways	Ch. 90	170
LOGGERS' LIENS		
Partnerships, corporations and associations covered	Ch. 59	111
LONG-RANGE BUILDING PROGRAM BONDS		
Cigarette, corporation and income tax for sinking fund account, amount authorized	Ch. 318	1121

M

MARRIAGE AND DIVORCE		
Waiting period after divorce before remarriage removed	Ch. 63	116
MASSAGE		
Regulation and licensing of occupation	Ch. 302	1037

HeinOnline -- 1967 vol. II 1360 1967

	Sec.	Page
MEDICAL ASSISTANCE ACT		
Administrative provisions	1	1161
Advisory council, membership	3	1163
Contracted services	5	1164
County share of participation	9	1165
Definitions	2	1162
Discrimination prohibited	16	1166
Eligibility		
investigation and determination	10	1165
redetermination	11	1165
requirements	6	1164
Indians, assistance to ward, state department as agent of Federal Government	17	1167
Liens on property of recipient, excluded	14	1166
Professional freedom and freedom of choice of recipients	4	1164
Records, confidential	13	1166
Relatives' responsibility	15	1166
Residence, change to another county	12	1165
MEMORIALS		
See Resolutions		
MENTAL HEALTH		
Centers to be established by department of institutions	Ch. 255	768
See Department of Institutions	Ch. 246	737
MILK CONTROL BOARD	Ch. 4	7
Bonds required of distributors	7	17
Declaration of policy	1	7
Definitions	3	10
Entry, inspection and investigation	6	17
General powers of board	4	11
General purpose of law	2	10
Orders fixing minimum prices, posting	5	13
MINORS		
Jurisdiction of police courts, beer or liquor violations	Ch. 93	173
MOBILE HOMES		
Classified for property taxation	Ch. 296	908
MONTANA ARTS COUNCIL		
Creation, powers and duties	Ch. 2	4
MONTANA LAW ENFORCEMENT ACADEMY		
Sessions, acceptance and expenditure of funds	Ch. 233	680
MONTANA PLANNING AND ECONOMIC		
DEVELOPMENT COMMISSION		
Creation, powers, duties, planning board abolished	Ch. 19	43
MONTANA TRADE COMMISSION		
Meetings, procedure on notice of violations	Ch. 142	255
MONTANA WATER RESOURCES ACT		
Enacted	Ch. 158	277
MOTELS		
See Transient Lodging		
MOTOR BOATS		
Gasoline tax for state parks	1	757
Refund of gasoline tax	2	758

HeinOnline -- 1967 vol. II 1361 1967

	Sec.	Page
MOTOR CARRIERS		
Persons subject to penalties for violation of Act added	Ch. 209	611
MOTORCYCLES		
Regulations for operating on streets and highways	Ch. 175	311
MOTOR VEHICLES		
Abandoned, removal and disposal	Ch. 288	873
Application for registration and payment of tax	1	886
Application for registration, time for	Ch. 51	100
Census of cities for allocation of license fees	Ch. 89	169
Certificate of registration for vehicle involuntarily transferred	Ch. 191	334
Combination fees, motor trucks and truck-tractors	7	1236
Dealers' exemptions from fees	Ch. 262	782
Drag racing prohibited without permission	Ch. 100	181
Drivers' license fees, disposition of	Ch. 23	56
Liability insurance		
increases	Ch. 30	63
uninsured motorist	Ch. 31	71
Licensed special fuel user or dealer, credits	Ch. 104	185
National Guardsmen, distinctive license plates for	Ch. 114	203
Nighttime speed limit on interstate highways	Ch. 190	332
Number plates, issued when, deposit and disbursement of revenue	Ch. 41	85
Registrar, duties, certain duties removed	Ch. 74	130
Registration fee, division between city and county road funds	Ch. 16	32
Soil conservation equipment, classification for taxation	Ch. 143	260
Special fuel dealers or users with records out of state, accompanying records for review	Ch. 106	187
Special fuel user's temporary trip permit	Ch. 105	186
Special mobile equipment, time for assessment	Ch. 232	678
Standards of maximum dimensions, weights, etc.	1	1229
Taxation, additional fees		
farm vehicles	6	1236
gross weight over 42,000 pounds	4	1235
house trailers	5	1236
motor trucks and truck-tractors	2	1234
payment of, penalties	Ch. 292	900
trailers and semitrailers	3	1235
Taxation, assessment of personal property brought into state, exceptions	4	890
Taxation, foreign vehicles	2	888
Taxation, license fees, retention of 5% by counties	Ch. 293	902
Taxation, mobile homes, classification of	Ch. 296	908
Taxation, sales tax on new motor vehicles	5	891
Taxation, time of assessment, dealers' inventories excepted	3	889
Violations of laws, guaranteed arrest bond certificates	95-1122	388

N

NAMES		
Changes decreed in 1965-1966		1325
NATIONAL GUARD		
Distinctive license plates for members	Ch. 114	203
NATURAL RESOURCES AND DEVELOPMENT		
Council on, composition	Ch. 230	675
NATURALIZATION		
Collection and deposit of fees	Ch. 73	130
NURSING		
Employment practices in health care facilities, establishment of	Ch. 250	753

HeinOnline -- 1967 vol. II 1362 1967

	Sec.	Page
Montana Nursing Practice Act	Ch. 291	892
definitions	2	893
exemptions from Act	7	898
licensing, practical nurses	5	896
licensing, professional nurses	3	894
practical nurses, qualifications of applicants for license	4	895
practical nurses, waiver of certain requirements for licensing	6	897
violations, penalties	8	899

O

OBSCENE LITERATURE

Defined, distribution, penalties ..... Ch. 276 829

OPTOMETRY

Provisions regulating practice, injunction for violations ..... Ch. 88 167

OSTEOPATHS

License fees and compensation of board members ..... Ch. 206 593

OUTDOOR ADVERTISING

See Highways

P

PARKS

County boards of park commissioners authorized, powers and duties .... Ch. 306 1045
Extension of city boundaries to include land platted for ..... Ch. 281 842
See State Parks

PHARMACY

Licenses, suspension or revocation, use of word "pharmacy" ..... Ch. 9 22
Pharmacists included in professional service corporation Act ..... Ch. 10 23

PHYSICAL THERAPISTS

Included in professional service corporation Act ..... Ch. 10 23

PLANNING AND ECONOMIC DEVELOPMENT COMMISSION

Creation, powers, duties, state planning board abolished ..... Ch. 19 43

PLUMBERS

Fixture fee, use ..... Ch. 236 694

POLICE COURTS

Jurisdiction, possession of liquor by, providing to minors ..... Ch. 93 173

POLICEMEN

Salaries, cities of first and second class ..... Ch. 266 806

POST-ATTACK RESOURCE MANAGEMENT ACT ..... Ch. 297 919

POST-ENEMY ATTACK

Continuity in state government ..... Ch. 268 808
Continuity, constitutional amendment adopted 1331

PRINTING

County printing commission established ..... Ch. 280 839
Printing and publication of departmental reports ..... Ch. 261 779

PROBATION OFFICERS

Salaries increased ..... Ch. 7 20

HeinOnline -- 1967 vol. II 1363 1967

	Sec.	Page
PROFESSIONAL SERVICE CORPORATION ACT		
Pharmacists and physical therapists included	Ch. 10	23
PUBLIC BUILDING		
Contractor working overtime on previous contract	Ch. 141	254
PUBLIC EMPLOYEES		
See Public Officers and Employees		
PUBLIC EMPLOYEES' RETIREMENT SYSTEM		
Board to administer Montana Judges' Retirement System	3	878
Death benefit, survivorship provisions	6	662
Employer contributions, increased	Ch. 214	616
Exemptions, employees of sixth and seventh class county hospitals and rest homes	Ch. 150	269
Management of retirement fund		
payment of accumulated contributions to member terminating service after ten years	Ch. 222	633
rate of contribution of members	1	650
Payment in case of cancellation of disability allowance	5	661
Reinstatement from disability retirement	4	660
Service retirement allowance, computation	3	655
Voluntary service retirement, reemployment	2	654
Volunteer firemen, operation of pension plan	Ch. 160	284
Volunteer firemen's pension plan, reports of	Ch. 159	283
PUBLIC HEALTH AND SAFETY		
See Air Pollution, Water Pollution, Boilers, Food, State Board of Health, Transient Lodging		
PUBLIC OFFICERS AND EMPLOYEES		
Appointed officials, salaries	Ch. 237	695
Classification and compensation plan for state employees	Ch. 3	1237
Data processing and major office equipment, supervision of procurement	Ch. 298	923
Group insurance coverage	Ch. 200	585
Per diem and mileage	Ch. 48	95
Printing and publication of reports	Ch. 261	779
Proposed constitutional amendment for increase in salaries during terms	Ch. 154	274
Salaries, elected officials, justices and judges	Ch. 308	1080
Traveling expenses for attending conventions, clerks of district courts	Ch. 66	117
Traveling expenses for attending conventions, justices of the peace	Ch. 174	309
See Legislative Audit Act		
PUBLIC UTILITIES		
Financing statements, transmitting utilities	Ch. 279	838
PUBLIC WELFARE		
Exemption of blind from lien requirements on real property for aid	Ch. 60	112
See Legislative Audit Act	Ch. 249	743
See Medical Assistance Act	Ch. 325	1161

R

REAL ESTATE		
Constructive notice of instruments affecting title	Ch. 147	265
REFERENDUM MEASURES ADOPTED		
Cigarette tax for long-range building program		1332
Continuity in state government, post-attack		1331
REFERENDUM PROPOSED		
Levy of property tax for University System	Ch. 50	99
See Constitutional Amendments proposed		

HeinOnline -- 1967 vol. II 1364 1967

RESOLUTIONS	Sec.	Page
House Joint Resolutions		
alcohol and drugs, youth education program		1183
citizens' right to bear arms		1177
Cooney Reservoir, recreational facilities		1195
highways, additional primary system mileage		1184
imported meat quotas		1179
Indians, guaranty and insurance of loans to		1201
legislative assembly, requirements for employees		1186
Little Jerusalem State Park		1182
protection of state in right to use of its waters		1196
railway post office car service within state		1180
Reclamation Act, modernization of land limitations		1200
roads, returned to original width by Strategic Air Command		1192
Rosebud State Park		1187
University of Montana, football and track facility construction		1187
Veterans' administration hospital at Fort Harrison, enlargement		1198
veterans, permanent national cemetery system		1198
vocational technical education facilities, study of		1193
Yellowstone River, maintenance of natural features		1188
Yellowtail Reservoir, all-weather road to		1202
Senate Joint Resolutions		
Beartooth Highway, appropriation for reconstruction of portion		1213
commemorative postage stamp, Phoebe Apperson Hearst		1207
federal income tax, return of percentage to states		1207
Garrison air pollution conference		1203
Glasgow Air Force Base, utilization of		1212
highways, restoration of federal funds		1220
Libby Dam, land acquisition policy		1204
Montana Trade Commission, study by legislative council		1221
municipal elections, study by legislative council		1206
national forest receipts, percentage distribution for schools and roads		1215
presidential succession, ratification of proposed amendment to U. S. Constitution		1209
railroad merger, opposition to proposed		1211
state lands, committee to study best overall use		1218
surplus commodities, sale by federal agencies		1216
uniform design and construction standards of state buildings, study by legislative council		1217
RESOURCES		
Post-attack resource management Act	Ch. 297	919
Resource development account, state lands improvement	Ch. 295	906
See Water Resources Act	Ch. 158	277
REVISED CODES OF MONTANA		
Replacement volume, adoption of volume 5	Ch. 3	6
Supervision and control of publication by Supreme Court	Ch. 304	1043

S

SCHOOLS AND SCHOOL DISTRICTS		
Additional trustees added in third class districts	Ch. 311	1085
Attendance at public elementary school outside of district, written consents required	Ch. 225	640
Bond issues, commencement of proceedings by resolution of board of trustees	Ch. 54	102
Bond redemption, when	Ch. 273	825
Bonded indebtedness assumed by new districts	Ch. 271	814
Certain records, destruction after 25 years	Ch. 95	174
Contracting, without calling for bids, amounts	Ch. 57	109

HeinOnline -- 1967 vol. II 1365 1967

INDEX

	Sec.	Page
Destruction of old school records authorized	Ch. 166	298
Elections for school district building reserve fund authorized	Ch. 85	163
Foundation program, financial schedules, percentage of maximum budget	Ch. 317	1115
Handicapped children		
census of	Ch. 153	273
special education class for four or more	Ch. 163	292
special education class for under age six	Ch. 164	295
Health instruction, supervisors	Ch. 252	762
Lease agreements for rental of needed buildings, election for	Ch. 321	1149
New area vocational technical schools, use of anticipated ANB	Ch. 211	613
Participation in child nutrition Act of 1966	Ch. 123	219
Provision of insurance coverage against liability	Ch. 58	110
School boards		
organization meeting, when held	Ch. 46	92
vacancies, how filled	Ch. 275	828
School elections		
requirements to vote	Ch. 139	251
requirements to vote in extra levy	Ch. 140	252
School for deaf and blind, ages of children for admission and attendance	Ch. 282	845
State board of education, per diem allowance of members	Ch. 103	184
Teachers' retirement system		
membership, years' service required for vested right	Ch. 240	717
per diem of board members, material replaced inadvertently removed by 1965 amendment	Ch. 84	160
purchase of years of out-of-state service	Ch. 242	725
reserve fund for use at beginning of school year	Ch. 117	205
salary limit used to compute benefits, payments to beneficiaries	Ch. 238	706
superannuation and disability retirement, years' service required, payments to beneficiaries	Ch. 241	719
Ten days absence in determining ANB	Ch. 118	206
Transportation budgets, reserve fund authorized	Ch. 243	729
Trustees, mileage for	Ch. 264	804
Tuition, attending school outside of district, waiver when	Ch. 322	1153
University system, expenses of executive secretary	Ch. 103	184
Vocational-technical education, provisions for	Ch. 254	764
See Legislative Audit Act	Ch. 249	743
SECURITIES ACT OF MONTANA		
Civil remedies of purchasers of securities sold in violation of Act	Ch. 213	615
SEWERS		
County water and/or sewer districts authorized, procedure	Ch. 263	783
Metropolitan sanitary and/or storm districts, rates for	Ch. 202	588
SILICOSIS		
Payments to silicotics	Ch. 125	222
SOCIAL SECURITY		
Contribution account, investment in long term investment fund	Ch. 109	198
SOIL CONSERVATION		
Commission, compensation of members	Ch. 47	93
Equipment used in, classification for taxation	Ch. 143	260
SOIL AND WATER CONSERVATION DISTRICTS		
Municipalities authorized to join	Ch. 146	262
STATE AERONAUTICS COMMISSION		
Certification and regulation, intrastate air carriers	Ch. 171	301
Insurance required of commercial air operators	Ch. 122	217

HeinOnline -- 1967 vol. II 1366 1967

INDEX

	Sec.	Page
STATE AUDITOR		
Regulation of filing of assignments against monies due from the State of Montana	Ch. 44	90
STATE BOARD OF EQUALIZATION		
Members, salary	13	704
STATE BOARD OF FOOD DISTRIBUTORS		
Compensation of members	Ch. 65	116
STATE BOARD OF HAIL INSURANCE		
See Hail		
STATE BOARD OF HEALTH		
Administration of Clean Air Act	Ch. 313	1090
Administration of insecticide, fungicide and rodenticide Act of 1947	220	529
Codification and Revision of Laws	Ch. 197	466
Cadavers		
autopsies, right to perform, when	155	512
autopsies, who may perform, reports	156	512
dissection by licensed mortician	157	512
medical schools use of unclaimed bodies	153	511
procedure to procure human body for use in teaching	154	511
violations, penalty	158	513
Cesspools, septic tanks and privies		
enforcement, violations, penalty	200	526
exemptions, counties, municipalities	199	526
license, contents of application for	194	525
license, issuance, terms, fees, "Montana Sanitary Licensee"	195	525
license required for business of cleaning	193	524
licensees, identification painted on vehicles	196	525
licensees, securing of permits from local health officer	197	525
rules, adoption by state board	198	526
Hospitals, hospital related facilities, and long-term care facilities		
advisory council, appointed by governor	172	519
advisory council, terms, meetings, compensation	173	519
alteration or addition to facility, plans submitted	170	517
appeal to district court from decision of board on licensing	169	517
definitions	159	513
denial of hospital or facility license	167	516
denial of long-term care facility license	165	515
discrimination prohibited	175	520
federal government facilities exempt from Act	160	514
information confidential	176	520
injunctions against facilities	178	520
inspection upon application for license	164	515
license fee	162	514
license, procedure for applying	163	514
licensing required	161	514
procedure when license suspended, revoked or denied	168	516
professional relationship, physician and patient, preserved	175	520
records and reports of licensees	177	520
religious treatment exempt	175	520
rules and standards adopted by board	174	520
standards for long-term care facilities, adopted by board	171	518
violations, penalty	179	520
Hospitals, medical and related facility survey and construction		
applications for facilities, by whom submitted	188	523
appplications, processing	189	524
consolidated applications for facilities, two or more counties	191	524
definitions	180	521
discrimination prohibited	192	524
duties of state department	182, 184	522

HeinOnline -- 1967 vol. II 1367 1967

	Sec.	Page
federal funds, acceptance	190	524
minimum standards for operation of facilities	186	523
publicity and public hearing on plans before submitting to federal agency	185	523
relative need for projects, specified in state plan	187	523
rules adopted by state board	183	522
state department of health as principal state agency	181	521
Industrial hygiene		
occupational disease defined	19	474
reports of occupational diseases	22	475
rules to prevent hazardous health conditions	20	474
state department of health, duties	21	474
violations, penalty	23	475
Local boards of health		
appointment of local health officers	88	493
city boards, membership	82	489
city-county boards, membership	83	489
county boards, membership	81	489
communicable disease, report of physician to local health officers	91	494
dead animals, violations in disposal	95	495
definitions	78	488
diseased prisoner, removal to hospital	93	494
district boards	84	489
duties	86, 87	491, 492
financing	85	490
law enforcement officers, assistance to health officers	90	494
nurse, employment for home nursing	89	493
orders of board, failure to comply	96	495
quarantine regulations, violation	94	495
smallpox, procedure when discovered	92	494
violations, penalty	94, 95	495
Public swimming pools and bathing places		
authority of department and local boards	205	527
construction contrary to Act, a public nuisance	210	528
construction plans for swimming pool, submission for approval	207	527
definitions	202	526
duties of persons operating public swimming facility	208	527
public policy	201	526
requirements for public facilities	209	527
reports of inspections, publishing of	206	527
rules for sanitation, adopted by board	203	527
supervision of sanitation by state board	204	527
violations, penalty	211	528
Public water supplies		
definitions	141	507
drilling water wells, records	145	509
duties of state department of health	143	508
judicial review of rules or standards	146	509
prohibited acts	144	509
public policy	140	507
responsibility of state board of health	142	507
violations, penalty	147	510
Shoddy control		
condemnation of mattresses	119	499
definitions, mattress	114	498
entry of premises permitted for inspection	118	499
manufacture and renovation, labeling	115	499
prohibited acts	116	499
rules and standards, adoption by board	117	499
violations, each mattress as unit of, penalty	120	500
State Board of Health		
attorney general as legal adviser	11	472

HeinOnline -- 1967 vol. II 1368 1967

INDEX

	Sec.	Page
definitions	2	467
department of health, duties	10	471
established	1	467
executive officer, duties	9	470
executive officer, removal	8	470
executive officer, salary, qualifications	7	469
executive officer, temporary	7	470
executive officer to act, when	13	472
infant morbidity and mortality information	15	472
membership	3	467
officers, meetings, compensation	4	467
phenylketonuria testing of infants	16	473
powers of board	6	469
public health information furnished to department	14	472
quarantine measures	12	472
responsibility of board	5	468
sanitary inspections of public places	18	473
schools, adoption of rules for	17	473
Subdivisions		
defined	149	510
public policy, individual wells in controlling water supply and sewage disposal	148	510
rules and standards by state board	152	511
sanitary restrictions	150	410
Tourist camp grounds		
duties of department, inspection, supervision	216	529
license, application, fee	215	528
license, denial, hearing on	217	529
license, denial or revocation	216	529
requirements, persons operating	214	528
rules, adoption by state board	213	528
term to include	212	528
violations, penalty	218	529
Tuberculosis control		
contents of order applying to persons suspected of having tuberculosis	29	477
court costs, expenses and fees	38	479
definitions	25	476
duties of state department of health	27	476
failure to comply	32	477
finding of court on hearing	31	477
hearing on application for order	30	477
hospitalization	34	478
order of commitment	33	478
person suspected of having tuberculosis	28	476
public policy	24	475
release, application after commitment	35	478
release, when	36	478
rules for determination of tuberculosis in a communicable state	26	476
state pulmonary disease hospital, maintenance of facilities	40	479
transfer to another hospital	37	478
transportation expenses	39	479
Venereal disease		
birth or death certificate, statement as to tests	110	498
certificate of freedom from disease	105	497
defined	97	496
department of health, responsibilities	98	496
duties, public health officers	101	496
federal funds, acceptance	99	496
information concerning persons infected, release of	106	497
medications, without prescription	104	497
person suspected of infection, report of	103	497

HeinOnline -- 1967 vol. II 1369 1967

	Sec.	Page
physicians' reports	100	496
pregnant women, blood sample tests	108	497
prisoners, examination and treatment	102	497
reports of positive laboratory tests	109	498
reports of positive tests, use by department	111	498
rules adopted by state board, effect of law	112	498
serological test for syphilis	107	497
violations of chapter, misdemeanor	113	498
Violations not specified in Act, misdemeanors	221	533
Vital statistics		
adoption annulled, restoration of original birth certificate	61	484
birth certificate on proof of legitimation	63	484
birth certificate		
child of unknown parentage	55	482
delayed or altered	57	483
delayed or altered, probative value	59	483
filed by person born in state	56	483
filing	53	482
substitute, procedure for	60	483
substitute, recording	61	484
unattended birth	54	482
body brought into state for burial, permit	69	486
certificates as prima facie evidence	52	481
certificates, contents, duties of local registrars	51	481
certified copies of certificates	46	481
certified copies, deposit of fees for	48	481
certified copies, fee for	47	481
death or fetal death certificates, filing	64	485
death or fetal death certificates, where no medical attendance	66	485
definitions	41	479
delay in determining cause of death, notice to local registrar	67	486
disclosure of data, unlawful	44	480
duties of state department	43	480
fees to local registrars	71	486
illegitimacy of birth, disclosure of	62	484
information, person having knowledge to furnish on demand of state registrar	75	487
institutions, recording and reporting data	70	486
interment, duties of person in charge	65	485
judicial procedure to establish date and place of birth	58	483
local registrars and deputies, duties	50	481
permit for removal of body from registration district	68	486
release of information, when	45	480
reports of divorces, adoptions and annulments by clerk of court	73	487
reports of divorces or annulments, contents	74	487
reports of marriage certificates by clerk of court	72	486
state registrar, duties	49	481
statewide system and rules	42	480
violations, penalty	76, 77	487
Water pollution		
administration of law, state board of health	125	501
appeal to district court from decision of council at rehearing	136	505
classification of streams, procedure for	134	504
compliance with order, time for	137	506
cooperation with other states, agencies and federal government	128	502
definitions	122	500
duties of department	129	503
exemptions	124	501
industrial use	123	501
injunction for failure to comply with order	138	506
orders of council or state board, when final, procedure for rehearing	135	505

HeinOnline -- 1967 vol. II 1370 1967

	Sec.	Page
permits and use	127	502
prohibited acts	126	501
public policy	121	500
state officers and employees, cooperation with council	139	507
state water pollution control council, membership	130	503
state water pollution control council, officers, duties	132	503
state water pollution control council, terms of office	131	503
treatment to natural condition	121	500
See Food, drug and cosmetic Act		
See Food service establishments		
See Ionizing radiation		
See Transient lodging		
STATE BOARD OF LAND COMMISSIONERS		
Commissioner, salary	8	701
Exchange of lands with U. S. and counties	Ch. 39	81
Investment of moneys, employment of investment counsel	Ch. 78	151
Investment of state funds, in real property	Ch. 185	322
Reimbursement to counties because of tax exempt status of state owned land	Ch. 235	692
STATE BOARD OF PARDONS		
Director, salary	16	705
STATE BOARD OF PUBLIC WELFARE		
Administrator, salary	4	696
Board members, per diem allowance	Ch. 101	181
STATE BUILDING PROGRAM		
Scheduling to minimize effects of weather	Ch. 116	205
See Contractors		
STATE COMMISSIONER OF LABOR		
See Labor		
STATE ENTOMOLOGIST		
Appointment, qualifications and duties	Ch. 75	132
STATE EXAMINER		
Salary	10	703
See Legislative Audit Act	Ch. 249	743
STATE FORESTER		
Programs in youth forest camps	10	1141
Salary	9	702
STATE GOVERNMENT		
Continuity, post-enemy attack	Ch. 268	808
Continuity, post-enemy attack, constitutional amendment adopted		1331
Post-attack resource management Act	Ch. 297	919
Support of, 1967-1968 tax levy	Ch. 283	846
See Legislative Audit Act	Ch. 249	743
STATE GRASS CONSERVATION COMMISSION		
See Grass conservation		
STATE INSTITUTIONS		
Participation by inmates in programs of research and development	Ch. 98	178
See Department of Institutions		
STATE LANDS		
Resource development account established for improvement	Ch. 295	906
See State Board of Land Commissioners		

HeinOnline -- 1967 vol. II 1371 1967

	Sec.	Page
STATE LIQUOR CONTROL BOARD		
See Liquor Control Board		
STATE OFFICERS AND EMPLOYEES		
See Public Officers and Employees		
STATE PARKS		
Deposit of fees to credit of fish and game commission	Ch. 87	166
Motor boating, gasoline tax	Ch. 251	756
STATE PLANNING BOARD		
Abolished	9	48
STATE PRINTING		
Printing and publication of departmental reports	Ch. 261	779
STATE PRISON		
Good time allowance for inmates	Ch. 219	630
STATE SOIL CONSERVATION COMMISSION		
See Soil Conservation		
STATE WATER CONSERVATION BOARD		
Director, salary	14	705
Replaced by Montana water resources board	4	280
Weather modification control	Ch. 20	48

T

TAXATION		
Ambulance service, levy for	Ch. 162	292
Assessment of license fee of 1% of gross receipts of public contracts	Ch. 195	349
Assessment of personal property brought into state, exceptions	4	890
Banks, in each county where office located	Ch. 72	129
Banks, state, exempt from corporation license tax	Ch. 316	1115
Census of cities for allocation of motor license fees	Ch. 89	169
Cigarette, corporation and income, for long-range building program	Ch. 318	1121
Cigarette tax for state buildings, referendum adopted		1332
City and county, levy for emergencies	Ch. 97	176
City-county government, levy for current expense, special services	Ch. 81	156
Classes of property, merchandise stored for shipment out of state	Ch. 294	902
Classes of property, mobile homes	Ch. 296	908
Classification of property, renting portions of Class 8	Ch. 215	618
Classification of property used in air pollution control	20	1104
Corporation license tax, rate increase	Ch. 4	1239
Counties, 20 mill levy for current expenses	Ch. 128	228
County poor fund levy increased, poll tax eliminated	Ch. 69	122
Extraordinary levies by municipality to pay bonded indebtedness and judgments	Ch. 145	262
Gasoline license tax, rate increase, allocation to counties, cities and towns	Ch. 6	1243
General road tax, permissive levy increased	Ch. 83	159
Income		
collection of tax withheld when in jeopardy	Ch. 212	613
definitions, "taxable year" for federal income tax purposes	Ch. 62	114
divulging information as to exemptions for blindness, to highway patrol	Ch. 253	762
federal return, furnishing copy of, federal corrections and amended return required	2	113
federal return, suspension of running of statute of limitations when changed	1	113

HeinOnline -- 1967 vol. II 1372 1967

	Sec.	Page
information agents' duties to report where tax not withheld	Ch. 205	592
rate increase	Ch. 5	1242
Inheritance, discount for payment within 18 months	Ch. 15	30
Motor vehicle dealers' exemptions	Ch. 262	782
Motorboats, gasoline used in	Ch. 251	756
Net premiums of insurers, period extended	Ch. 71	126
Proposed referendum for levy for University System	Ch. 50	99
Special fuel dealers or users with records out of state, to accompany records for review	Ch. 106	187
Special fuel, licensed user or dealer, credits	Ch. 104	185
Special fuel user's temporary trip permit	Ch. 105	186
Special mobile equipment, time of assessment	Ch. 232	678
Support of state government, 1967-1968 tax levy	Ch. 283	846
Tax sales, redemptioner's purchase money and interest	Ch. 8	21
Uniform Federal Tax Lien Registration Act	Ch. 228	663
duties of filing officer	3	663
fees	4	665
execution of notices and certificates	2	663
federal tax lien, place of filing	1	663
liens and notices filed before effective date of Act	9	665
See Motor Vehicles		
TELEPHONES		
Criminal offense for certain uses	Ch. 25	58
TELETYPEWRITER COMMUNICATIONS SYSTEM		
Created	Ch. 1	1225
TIRES		
Special design for safety use	Ch. 92	172
TOURIST HOMES		
See Transient Lodging	Ch. 18	38
TRANSIENT LODGING		
Act to regulate	Ch. 18	38
definitions	2	39
inspections	7	42
license, cancellation or denial	5	40
license fee, supersedes other fees	10	42
license fee, term	4	40
license required	3	39
rules and regulations by state board, cooperative agreements with other agencies	6	41
subpoenas by board	8	42
violations, penalties	9	42
TREES		
Transporting more than ten without bill of sale	Ch. 137	247
TRUSTS AND MONOPOLIES		
Unlawful, refunds or sharing costs of bidding	Ch. 102	183

U

UNDERTAKINGS		
Amount required in attachment proceedings	Ch. 303	1042
UNEMPLOYMENT COMPENSATION		
Lump sum settlements, effect of	Ch. 188	327

HeinOnline -- 1967 vol. II 1373 1967

	Sec.	Page
UNFAIR PRACTICES ACT		
Meetings of Montana Trade Commission, procedure on notice of violations	Ch. 142	255
UNIFORM ACT ON CLOSE PURSUIT		
Enacted	95-619	370
UNIFORM COMMERCIAL CODE		
Financing statements, requirements, indexing	Ch. 272	818
Financing statements of transmitting utilities	Ch. 279	838
UNIFORM DISPOSITION OF UNCLAIMED PROPERTY ACT		
Business associations, money orders added to Act	1	645
Notice and publication of lists of abandoned property	3	648
Payment or delivery of abandoned property	4	649
Reports of abandoned property	Ch. 21	53
Reports of abandoned property, money orders and traveler's checks	2	646
UNIFORM FEDERAL TAX LIEN REGISTRATION ACT		
Revised	Ch. 228	663
UNIFORM FOOD, DRUG AND COSMETIC ACT		
Enacted	Ch. 307	1049
UNIFORM GIFTS TO MINORS ACT		
Custodian, resignation, death or removal, succession	6	689
Definitions, life insurance, policies, annuity contracts, financial institutions	1	682
Duties and powers of custodian	4	686
Exemption of third persons from liability	5	688
Effect of gift	3	686
Manner of making gifts	2	684
Vested rights not impaired	8	691
UNIVERSITY SYSTEM		
Consent granted for construction at units	5	1296
Cooperation in programs of research and development	Ch. 99	179
Indians, number who may attend without fees	Ch. 129	228
Powers of regents, revenue-producing buildings	Ch. 13	26
Proposed referendum for tax levy for	Ch. 50	99
Refund of transportation to students repealed	Ch. 127	227
Residence of students for tuition purposes	Ch. 299	924
State entomologist at agricultural experiment station	Ch. 75	132
UNSOLICITED GOODS		
Persons receiving released from obligation	Ch. 210	612

V

VALIDATING ACTS		
Bond validating Act of 1967	Ch. 96	175
Certain instruments affecting real property	Ch. 181	319
Deeds and conveyances defective in execution	Ch. 183	320
Deeds and conveyances made by trustees, executors, administrators and guardians	Ch. 182	320
Judicial sales of real property	Ch. 180	318
Records of court proceedings containing defects in obtaining judgment affecting real property	Ch. 184	321
Sales by counties	Ch. 247	741
VETERANS		
Burial of deceased servicemen and women	Ch. 310	1082
World War I Honorarium, date for application extended	Ch. 112	201

HeinOnline -- 1967 vol. II 1374 1967

	Sec.	Page
VOCATIONAL-TECHNICAL EDUCATION		
Provisions for	Ch. 254	764

W

WARM SPRINGS STATE HOSPITAL		
See Department of institutions		
WATER		
Conservation and protection, supervision of water systems	Ch. 239	710
application for certificate as operator, fee	8	714
board of certification, members, officers, examination	3	711
certificates attesting to competency of operators	7	714
certificates of qualifications to operate systems	5	713
certificates, terms, renewal, revocation, suspension	9	715
classification of systems	4	713
definitions	2	710
public policy	1	710
rules and regulations adopted by board	10	716
systems to be supervised by qualified operator, when	6	713
violations, penalty	11, 12	716
County water and/or sewer districts authorized, procedure	Ch. 263	783
Multiple use projects authorized for cities and counties	Ch. 284	848
Water conservation districts, municipalities authorized to join	Ch. 146	262
Water conservation board		
director, salary	14	705
replaced by Montana water resources board	4	280
weather modification control	Ch. 20	48
WATER POLLUTION		
See State board of health	Ch. 197	500
WATER RESOURCES ACT	Ch. 158	277
Board, replacing state water conservation board, organization, etc.	4	280
Definitions	3	278
Powers and duties of board	5	282
Record of declaration, filing with county clerk and forwarding to board	6	283
State necessity and policy	2	277
WEATHER		
Modification control in state water conservation board	Ch. 20	48
WESTERN INTERSTATE CORRECTIONS COMPACT		
Enacted	95-2308	432
WHEAT		
Montana wheat research and marketing Act	Ch. 314	1105
administrative committee, appointment, duties	5	1107
administrative committee, compensation	6	1109
administrative committee, officers, meetings	8	1110
administrative committee, powers	9	1110
administrative committee, removal of members	7	1109
administrative office, location, staff, expense	10	1110
annual reports	14	1112
bonding of officers	16	1113
definitions	4	1106
effective date, duration of Act	21	1114
established	3	1106
gifts, grants, donations	15	1113
levy, annual assessment per bushel	11	1110
levy, sales to Federal Government exempt	12	1111
policy	2	1105

HeinOnline -- 1967 vol. II 1375 1967

	Sec.	Page
purchase invoices, procedure	13	1111
research units, contracting for	18	1113
revolving account	17	1113
violations, penalties	19	1114

WORKMEN'S COMPENSATION

Compensation for injury causing death, number of weeks	Ch. 192	337
Extraterritorial application and reciprocity	Ch. 70	124
Freedom of choice of insured in selecting doctor, etc.	Ch. 172	307
Increased benefits	Ch. 207	594
"Injured" and "injury" defined	Ch. 270	813
Lump sum settlement, effect on unemployment compensation	Ch. 188	327

WORLD WAR I HONORARIUM

Date for application extended	Ch. 112	201

Y

YOUTH FOREST CAMP

See Department of Institutions
See Juveniles

HeinOnline -- 1967 vol. II 1376 1967

INDEX OF APPROPRIATIONS

HeinOnline -- 1967 vol. II 1377 1967

HeinOnline -- 1967 vol. II 1378 1967

INDEX OF APPROPRIATIONS

EXECUTIVE DEPARTMENTS

Page

ABSTRACTERS' BOARD OF EXAMINERS 1261

ADJUSTED COMPENSATION DIVISION 1302

ADJUTANT GENERAL 1274

AERONAUTICS COMMISSION 1312
Capital project 1290

AGING, COMMISSION ON PROBLEMS OF 1306
Deficiency 1174

AGRICULTURE, DEPARTMENT OF 1274
Capital project 1290

ARCHITECTURAL BOARD OF EXAMINERS 1261

ATHLETIC COMMISSION 1261

ATTORNEY GENERAL 1254
Law enforcement teletypewriter communications system 1228

AUDITOR, STATE 1255
Fire department relief associations 1174
Police reserve funds to cities and towns 1176

BARBERS' BOARD OF EXAMINERS 1261

BOARD OF EQUALIZATION 1302

BOARD OF EXAMINERS 1303

BOARD OF HEALTH 1309
Clean Air Act provisions 1322
Water pollution hearing 1322

BUDGET DIRECTOR 1283
State employees' classification and compensation plan 1238

CHIROPRACTIC BOARD OF EXAMINERS 1261

CIVIL DEFENSE 1275
Deficiency 1176

COSMETOLOGY BOARD OF EXAMINERS 1262

DENTAL BOARD OF EXAMINERS 1262

DEPARTMENT OF ADMINISTRATION 1282
Capital and repair projects 1293

DEPARTMENT OF INSTITUTIONS 1281
Capital and repair projects 1295

ELECTRICAL BOARD 1262

ENTOMOLOGIST, STATE 1276

EXAMINER, STATE 1276

FISH AND GAME COMMISSION 1311
Capital projects and development 1291
Deficiency 1175
State Parks account 1249

HeinOnline -- 1967 vol. II 1379 1967

Page

FOOD DISTRIBUTORS' BOARD 1262

FORESTER, STATE 1313
Deficiency 1174

GOVERNOR 1255
Supplemental 1322

GRASS CONSERVATION COMMISSION 1308

HAIL INSURANCE, BOARD OF 1306

HIGHWAY COMMISSION 1288
Capital projects 1292
Interim committee to study, vetoed by Governor 1297
Promotion Boy Scout Jamboree, unexpended balance 1314
State Parks account 1249

HIGHWAY PATROL 1277
Deficiency 1175

HISTORICAL SOCIETY 1277
Ford collection housing 1160

HORSE RACING COMMISSION 1262
Deficiency 1173

INDIAN AFFAIRS, COORDINATOR 1304

INDUSTRIAL ACCIDENT BOARD 1307

JOINT MERIT SYSTEM 1305

LABOR AND INDUSTRY, DEPARTMENT OF 1312

LANDS AND INVESTMENTS, COMMISSIONER OF 1278
Right-of-way access 1172

LIBRARY COMMISSION 1305

LIQUOR CONTROL BOARD 1278
Capital project 1291

LIVESTOCK COMMISSION 1279
Deficiency 1175

LIVESTOCK SANITARY BOARD 1279

MASSAGE, BOARD OF 1264

MEDICAL BOARD OF EXAMINERS 1262

MILK CONTROL BOARD 1310

MONTANA ARTS COUNCIL 1286

MORTICIANS' BOARD OF EXAMINERS 1263

NURSING, BOARD 1263

OIL AND GAS CONSERVATION COMMISSION 1307

OPTOMETRY BOARD OF EXAMINERS 1263

OSTEOPATHIC BOARD OF EXAMINERS 1263

PARDONS, BOARD OF 1280

PHARMACY, BOARD OF 1263

PLANNING AND ECONOMIC DEVELOPMENT, BOARD OF 1280

PLUMBING BOARD OF EXAMINERS 1263

PROFESSIONAL ENGINEERS' AND LAND SURVEYORS' BOARD OF REGISTRATION 1264

HeinOnline -- 1967 vol. II 1380 1967

Page

PUBLIC EMPLOYEES' RETIREMENT SYSTEM 1308
PUBLIC SCHOOLS, SUPPORT OF 1319
PUBLIC WELFARE DEPARTMENT 1284
RAILROAD AND PUBLIC SERVICE COMMISSION 1256
REAL ESTATE COMMISSION 1264
REGISTRAR OF MOTOR VEHICLES 1281
SANITARIANS' REGISTRATION COUNCIL 1264
SECRETARY OF STATE 1256
Supplemental 1322
SOIL CONSERVATION COMMISSION 1284
SUPERINTENDENT OF PUBLIC INSTRUCTION 1257
TEACHERS' RETIREMENT SYSTEM 1309
TREASURER, STATE 1256
UNEMPLOYMENT COMPENSATION COMMISSION 1282
VETERANS' WELFARE COMMISSION 1309
VETERINARY MEDICAL BOARD OF EXAMINERS 1264
VOCATIONAL REHABILITATION, DIVISION OF 1285
WATER CONSERVATION BOARD 1285
WATER WELL CONTRACTORS' EXAMINING BOARD 1264

JUDICIAL DEPARTMENTS

COUNTY ATTORNEYS 1276
DISTRICT JUDGES 1310
Deficiency 1174
LAW LIBRARY 1304
SUPREME COURT, ATTORNEYS' LICENSING BOARD, AND LAW COMMISSIONS 1256

LEGISLATIVE DEPARTMENT

LEGISLATIVE AUDIT COMMITTEE 1249
Supplemental 1322
LEGISLATIVE COUNCIL 1249
Dues to Council of State Governments 1173
MONTANA CITIZENS' COMMITTEE ON STATE LEGISLATURE 1323
FORTIETH LEGISLATIVE ASSEMBLY .....
Operation 1171
Deficiency 1175
Extraordinary session 1299

STATE INSTITUTIONS

AGRICULTURAL EXPERIMENT STATION AND CO-OPERATIVE EXTENSION SERVICE 1317
BOARD OF EDUCATION 1259
Vocational-technical education 1321

HeinOnline -- 1967 vol. II 1381 1967

INDEX

Page

BUREAU OF MINES AND GEOLOGY 1317

CENTER FOR THE AGED 1267
Deficiency 1175

CHILDREN'S CENTER 1267

DEAF AND BLIND SCHOOL 1321
Capital and repair projects 1293

DEPARTMENT OF INSTITUTIONS 1281
Capital and repair projects 1295

INDUSTRIAL SCHOOL 1269
Deficiency 1175

PULMONARY DISEASE HOSPITAL 1270
Deficiency 1175

STATE HOSPITAL 1268

STATE PRISON 1269

SWAN RIVER YOUTH CAMP 1270

TRAINING SCHOOL AND HOSPITAL 1270
Deficiency 1175

VETERANS' HOME 1271
Deficiency 1175

UNIVERSITY SYSTEM

Capital project 1172
College of Mineral Science and Technology 1317
capital and repair projects 1294
Eastern Montana College 1318
capital and repair projects 1294
Executive Secretary, Office 1319
Montana State University 1316
agricultural buildings construction 1251
capital and repair projects 1294
Northern Montana College 1318
capital and repair projects 1294
vocational-technical education teacher training 1321
University of Montana 1316
capital and repair projects 1294
Western Montana College 1318
capital and repair projects 1294
Western Interstate Commission for Higher Education 1319

VOCATIONAL SCHOOL FOR GIRLS 1271

MISCELLANEOUS APPROPRIATIONS

COUNTY PRINTING COMMISSION 1252

MOTOR VEHICLES ACCOUNT, EARMARKED REVENUE FUND 1171

REVISED CODES OF MONTANA
Replacement volumes and cumulative pocket supplements 1171

HeinOnline -- 1967 vol. II 1382 1967

CODE INDEX

HeinOnline -- 1967 vol. II 1383 1967

HeinOnline -- 1967 vol. II 1384 1967

CODE INDEX

CODES OF 1947

Title-Sec.		Page
3-103	amended	695
4-108	amended	805
4-230	amended	752
4-347	amended	752
4-349	amended	97
5-528	amended	171
5-532	amended	19
5-910	amended	752
5-1130	amended	24
6-201, 202	repealed	122
6-302, 336	repealed	122
6-402	amended	204
7-204	amended	32
8-119	amended	612
10-101	amended	1150
10-611	amended	230
10-622	amended	20
11-403	amended	842
11-704	repealed	778
11-714	amended	26'
11-722, 723	repealed	120
11-725	amended	640
11-726	amended	326
11-728	amended	332
11-729	amended	275
11-731, 967	amended	276
11-1024	amended	586
11-1102	amended	80
11-1104	amended	225
11-1107	amended	174
11-1602	amended	173
11-1832	amended	806
11-1911, 1912	amended	604
11-1915	amended	606
11-1919	amended	607
11-1925	amended	608
11-1926	amended	609
11-1927	amended	610
11-1928	amended	611
11-1932	amended	807
11-2022	amended	286
11-2023	amended	290
11-2024	amended	288
11-2026, 2027	amended	285
11-2029	amended	284
11-2201	amended	239
11-2214.1	added	241
11-2214.2	added	242
11-2214.3	added	243
11-2214.4	added	244
11-2214.5	added	246
11-3124	repealed	120
11-3244	amended	120
11-3324	repealed	120
11-3413	amended	155
11-3455, 3458	amended	156
11-3516	amended	156
14-132	amended	272
15-101 - 108	repealed	1029
15-109 - 118	repealed	1030
15-121	repealed	1030
15-201 - 225	repealed	1030
15-301 - 303	repealed	1030
15-401 - 412	repealed	1030
15-501 - 509	repealed	1030
15-601, 602, 604	repealed	1030
15-606 - 627	repealed	1030
15-701 - 721	repealed	1030
15-801 - 811	repealed	1030
15-901 - 913	repealed	1030
15-1001, 1002	repealed	1030
15-1101 - 1131	repealed	1030
15-1201, 1202	repealed	1030
15-1301 - 1303	repealed	584
15-1401 - 1409	repealed	584
15-1501 - 1507	repealed	1036
15-1601 - 1603	repealed	1030
15-1701 - 1713	repealed	1030
15-1801 - 1807	repealed	1030
15-1901 - 1908	repealed	1030
15-2022	amended	615
15-2103	amended	23
16-508, 518	repealed	349
16-904	repealed	122
16-912	amended	108, 639
16-1009	amended	214
16-1015	amended	228
16-1201 - 1224	repealed	842
16-1301, 1302	repealed	584
16-1303	repealed	585
16-2818	amended	590
16-3204	amended	122
16-3302	amended	826
16-3602	repealed	122
16-3705	amended	770
16-4416	amended	588
16-4501 - 4503	amended	783
16-4505	amended	784
16-4506	amended	786
16-4507	amended	787
16-4508, 4509	amended	792
16-4510, 4511	amended	793
16-4513	amended	793
16-4514	amended	794
16-4516	amended	795
16-4519, 4520	amended	796
16-4525 - 4527	amended	797
16-4529 - 4531	amended	800
16-4532	amended	801
16-4533	amended	802
16-4534	amended	803
23-526	amended	251
23-530	amended	252
23-803	amended	343
23-811	amended	165
23-902	amended	272
23-910	amended	343
23-921	amended	345
23-1108	repealed	349
23-1109	amended	346
23-1111	amended	347
23-1807	amended	348
23-1809 - 1811	repealed	349
23-1812	amended	348
23-1904, 2402	amended	348
23-2403	amended	349
23-2502	amended	631
23-2506	amended	632
25-102	amended	1028
25-103 - 109	repealed	1030
25-210	amended	130
25-232	amended	627
25-233	amended	628
25-309	amended	835
25-501	amended	1080
25-508	amended	117, 309
25-605	amended	676
26-202.1	amended	1130
26-202.3	amended	72, 80
26-202.5	amended	1136
26-215	amended	59
26-301	amended	73
26-401	amended	76
26-1201	amended	88
27-101 - 105	repealed	1080
27-108 - 110	repealed	1080

HeinOnline -- 1967 vol. II 1385 1967

INDEX

Title-Sec.		Page
27-112, 113	repealed	1080
27-115 - 120	repealed	1080
27-202	amended	529
27-308	amended	117
27-401	amended	7
27-402, 403	amended	10
27-405	amended	11
27-407	amended	13
27-415, 426	amended	17
27-601 - 610	repealed	38
28-105	amended	268
28-109	amended	266
31-104	amended	308
31-105	amended	103
31-135	amended	56
31-222	amended	188
32-1123	amended	1229
32-1629	amended	1081
32-2144	amended	333
32-21-105	amended	311
32-21-149	amended	172
32-2407	amended	587
32-2501	amended	1089
32-2601	amended	757
32-2803	amended	827
32-2805	amended	317
32-3201	amended	901
32-3204	amended	902
32-3301	amended	1234
32-3302, 3303	amended	1235
32-3305	amended	1236
32-3306	amended	260, 1236
32-3309	amended	901
32-3315	amended	891
32-3601	amended	159
32-3702	amended	170
32-3707	amended	678
32-4501 - 4512	repealed	857
34-201 - 217	repealed	43
40-1727	repealed	120, 122
40-2716	amended	61
40-2820	amended	60
40-2821	amended	126
40-3332	added	769
40-3506	amended	63
40-4211	amended	202
40-4804	amended	774
41-1302, 1303	amended	83
41-1603	amended	695
43-101 - 106	repealed	349
43-107	amended	222
43-203, 204	repealed	349
43-902	amended	29
44-201 - 210	repealed	778
44-214	amended	778
44-216, 217	repealed	778
44-301 - 303	repealed	778
45-401	amended	111
46-2305	amended	57, 696
46-2706	amended	591
46-2805	amended	590
46-2810	amended	591
48-151	repealed	116
51-113	amended	255
51-303	amended	229
53-101	amended	130
53-106	amended	85
53-106.7	amended	204
53-109	amended	334
53-114	amended	886, 916
53-115	amended	100
53-129	amended	888
53-418	amended	64
53-422	amended	66
53-432	amended	68
53-438	amended	68
53-626	amended	782
59-514	amended	298
59-516	amended	175
59-538	amended	96
59-801	amended	96
59-802	amended	97
59-1105	amended	198
59-1106	amended	199
59-1201 - 1215	repealed	1239
62-305	amended	167
62-505	amended	622
62-507	amended	623
62-510, 511	amended	624
62-514	amended	625
66-104	repealed	251
66-108, 109	amended	248
66-110, 112	amended	249
66-114, 115	amended	233
66-506	amended	79
66-809	amended	235
66-816	amended	234
66-1221	amended	892
66-1222	amended	893
66-1228	amended	894
66-1231	amended	895
66-1232	amended	896
66-1233	amended	897
66-1242	amended	898
66-1243	amended	899
66-1302	amended	167
66-1403	amended	593
66-1410	amended	594
66-1508	amended	22
66-2816	amended	585
67-1801	amended	682
67-1802	amended	684
67-1803, 1804	amended	686
67-1806	amended	688
67-1807	amended	689
67-1810, 1811	amended	691
67-2202	amended	645
67-2211	amended	53, 646
67-2212	amended	648
67-2213	amended	649
68-203	amended	269
68-701	amended	634, 650
68-702 - 704	added	635
68-705, 706	added	636
68-707 - 709	added	637
68-710	added	638
68-801	amended	654
68-901	amended	655
68-1001	amended	660
68-1004, 1101	amended	661
68-1307	amended	617
68-1413	amended	201
69-101 - 103	repealed	533
69-105, 105.1 - 105.4	repealed	533
69-107	repealed	533
69-109 - 127	repealed	533
69-201 - 208	repealed	533
69-301, 303 - 319	repealed	533
69-401 - 404	repealed	533
69-501 - 536	repealed	533
69-536.1, 536.2	repealed	533
69-537 - 539	repealed	533
69-601 - 609	repealed	533
69-701 - 712	repealed	533
69-801 - 817	repealed	533
69-901, 902	repealed	533
69-1001 - 1025	repealed	533
69-1122 - 1138	repealed	533
69-1201 - 1220	repealed	533
69-1301 - 1320	repealed	533
69-1326 - 1346	repealed	533
69-1501	amended	146
69-1503	amended	147
69-1512	amended	148
69-1515	amended	150
69-1801	amended	670
69-1802	amended	671
69-1808	amended	672
69-2001 - 2004	repealed	533
69-2101	amended	674
69-2103	amended	674
69-2201, 2202	repealed	533
69-2301 - 2310	repealed	533
69-2407 - 2421	repealed	533

HeinOnline -- 1967 vol. II 1386 1967

INDEX

Title-Sec.		Page
69-2501 - 2504	repealed	533
69-2601 - 2603	repealed	533
69-2801 - 2813	repealed	38
69-2815, 2816	repealed	38
69-2901 - 2918	repealed	533
69-3001 - 3004	repealed	533
69-3007 - 3016	repealed	533
69-3016.1	repealed	533
69-3017, 3018	repealed	533
69-3101 - 3112	repealed	533
69-3201 - 3210	repealed	533
69-3601	amended	292
69-3801 - 3813	repealed	533
69-3901 - 3903	repealed	1105
71-106	amended	122
71-120	amended	1082
71-121 - 123	amended	1084
71-125	amended	1085
71-202	amended	181
71-203	amended	696
71-206	amended	751
71-211	amended	1167
71-222	amended	123
71-241	amended	112
71-1003	amended	223
71-1004	amended	224
71-1008	amended	224
73-201	amended	265
75-106	amended	184
75-216	amended	27
75-410	repealed	228
75-506.1	amended	229
75-506.3, 506.4	amended	925
75-506.7	added	924
75-1614	amended	829
75-1621	amended	92
75-1622	amended	804
75-1630	amended	641, 1154
75-1637	amended	109
75-1713.1	amended	1116
75-1810	amended	814
75-1813	amended	815
75-1904	amended	273
75-2009	amended	762
75-2010	repealed	762
75-2701	amended	706
75-2703	amended	160
75-2704	amended	717
75-2705	amended	726
75-2707	amended	720
75-3414	amended	729
75-3611	amended	206
75-3612, 3616	amended	1118
75-3801	amended	252
75-3904	amended	826
75-3908	amended	102
75-4246	amended	764
75-4301 - 4303	amended	765
75-4304	amended	766
75-4305 - 4307	amended	767
75-4518.1	amended	1119
75-4601	amended	1085
75-4802, 4803	amended	220
75-4805, 4806	amended	221
75-5001	amended	296
75-5003	amended	293
75-5005	amended	295
75-5203, 5206	amended	680
75-5208	amended	681
76-103	amended	262
76-104	amended	93
76-107	amended	263
77-117	amended	697
77-120	amended	698
77-1304	amended	700
79-1202	amended	151, 322
79-2202	amended	1122
79-2203	amended	1124
79-2205	amended	1126
80-105, 107	amended	845
80-1403, 1404	amended	1137
80-1405	amended	1138
80-1601, 1701	amended	1139
80-1702, 1703	amended	1140
80-1905	amended	630
80-2201	repealed	1149
80-2202 - 2205	amended	1141
80-2206	amended	1142
80-2208	repealed	1149
80-2209, 2210	amended	1142
80-2211, 2212	amended	1143
80-2301	amended	1144
80-2302 - 2305	amended	1145
80-2306, 2307	amended	1146
80-2308, 2309	amended	1147
80-2401	amended	1147
80-2402	amended	1148
80-2403	amended	738
80-2404	amended	1148
81-209	amended	701
81-304	amended	81
81-502	amended	217
81-1403	amended	702
82-110	amended	750
82-503	amended	629
82-801 - 804	repealed	133
82-1002	amended	747
82-1005, 1007	amended	749
82-1009	amended	750
82-1011	amended	703
82-1014 - 1016	repealed	753
82-1201	amended	666
82-1202	amended	667
82-1202.1, 1202.2	added	668
82-1203, 1204	repealed	675
82-1208, 1209	amended	669
82-1210	repealed	675
82-1211, 1218	amended	670
82-1227, 1228	repealed	675
82-1516	amended	300
82-1519	amended	703
82-1916	amended	780
82-2002	amended	1044
82-2003 - 2006	repealed	1044
82-2702	amended	703
82-3001	amended	675
82-3306	amended	923
82-3316	amended	28
82-3501 - 3503	amended	25
82-3504 - 3506	amended	26
84-101	amended	999
84-301	amended	618, 902, 910
84-406	amended	679, 889, 913
84-702	amended	704
84-1302	amended	732
84-1303	amended	736
84-1304	amended	733
84-1501	amended	1240
84-1515	amended	100
84-1801.1	amended	1243
84-1840	amended	1244
84-1818	amended	758
84-1836	amended	185
84-1837	amended	186
84-1838	amended	187
84-1842	amended	186
84-3501, 3505	amended	350
84-3507	amended	254
84-3901 - 3907	repealed	665
84-4130	amended	21
84-4403 - 4405	repealed	753
84-4701.6	added	262
84-4901	amended	114
84-4902	amended	1242
84-4913	amended	592
84-4920.1	amended	113
84-4928.1	added	614
84-4931	amended	762
84-4938	amended	113
84-4946	amended	613
84-5606	amended	1127
84-5621	amended	1129
84-6008	amended	890
84-6009	repealed	892

HeinOnline -- 1967 vol. II 1387 1967

INDEX

Title-Sec.		Page
84-6502 - 6504	repealed	625
84-6601	amended	914
84-6604, 6605	amended	916
87-106	amended	328
87A-9-302.1	amended	838
87A-9-302.2	amended	838
87A-9-402	amended	819
87A-9-403	amended	821
87A-9-404	amended	822
87A-9-405	amended	823
87A-9-406	amended	825
89-101	repealed	283
89-102	amended	278
89-103	amended	280
89-103.3	amended	705
89-301 - 309	repealed	48
89-813	amended	283
89-1708	amended	772
89-3301	amended	848
89-3302 - 3304	amended	849
89-3306 - 3308	amended	850
89-3309	amended	851
89-3310, 3311	amended	852
90-301.1, 304	repealed	1080
91-4416, 4418	amended	31
92-104	amended	705
92-418	amended	814
92-614	amended	125
92-701	amended	594
92-702	amended	596
92-703	amended	597
92-704	amended	337, 598
92-709	amended	600
93-303	amended	1081
93-407	repealed	122
93-1906	amended	633
93-4304	amended	1043
93-4342	repealed	1030
93-4401	amended	1029
93-6711	amended	200
93-7712	amended	299
93-9913	amended	326
94-1104	amended	183
94-3550	repealed	238
94-3601	amended	830
94-3602	amended	831
94-4716, 4716.1	repealed	463
94-4717, 4803	repealed	463
94-4805	repealed	463
94-4901 - 4917	repealed	463
94-5601 - 5619	repealed	463
94-5801 - 5805	repealed	463
94-5901 - 5918	repealed	463
94-6001 - 6024	repealed	463
94-6025 - 6033	repealed	464
94-6101 - 6125	repealed	464
94-6201 - 6208	repealed	464
94-6301 - 6335	repealed	464
94-6401 - 6413	repealed	464
94-6422	repealed	464
94-6426 - 6428	repealed	464
94-6430 - 6434	repealed	464
94-6501 - 6516	repealed	464
94-6601 - 6605	repealed	464
94-6701 - 6711	repealed	464
94-6801 - 6805	repealed	464
94-6809	repealed	464
94-6901 - 6913	repealed	464
94-7001 - 7013	repealed	464
94-7101 - 7128	repealed	464
94-7201, 7202	repealed	464
94-7205	repealed	464
94-7221 - 7233	repealed	464
94-7235 - 7239	repealed	464
94-7301 - 7306	repealed	464
94-7308	repealed	464
94-7401 - 7420	repealed	464
94-7501 - 7508	repealed	464
94-7601 - 7605	repealed	464
94-7701 - 7704	repealed	464
94-7801 - 7836	repealed	464
94-7837 - 7841	repealed	465
94-8001 - 8023	repealed	465
94-8101 - 8114	repealed	465
94-8201 - 8215	repealed	465
94-8301 - 8307	repealed	465
94-8401 - 8405	repealed	465
94-8501 - 8507	repealed	465
94-8601 - 8605	repealed	465
94-8701 - 8718	repealed	465
94-8901 - 8909	repealed	465
94-9101 - 9112	repealed	465
94-9301 - 9306	repealed	465
94-9401 - 9403	repealed	465
94-9501 - 9507	repealed	465
94-9601 - 9610	repealed	465
94-9701 - 9707	repealed	465
94-9825	amended	706
94-100-1 - 100-46	repealed	465
94-100-1 - 101-33	repealed	465
94-201-1 - 201-13	repealed	465
94-301-1 - 301-21	repealed	465
94-601-1 - 601-3	repealed	465
95-101, 102	added	353
95-201 - 209	added	354
95-210 - 211	added	355
95-301 - 304	added	355
95-401 - 404	added	356
95-405 - 412	added	357
95-501	added	357
95-502 - 505	added	358
95-506	added	360
95-507	added	361
95-508	added	362
95-509	added	363
95-601 - 603	added	364
95-604 - 608	added	366
95-609 - 612	added	367
95-613 - 615	added	368
95-616 - 618	added	369
95-619	added	370
95-701	added	371
95-702 - 705	added	372
95-706 - 711	added	373
95-712 - 715	added	374
95-716 - 718	added	375
95-801	added	375
95-802 - 804	added	376
95-805 - 810	added	377
95-811 - 814	added	378
95-901	added	378
95-902	added	379
95-1001, 1002	added	379
95-1003 - 1006	added	380
95-1101, 1102	added	380
95-1103 - 1106	added	381
95-1107 - 1110	added	382
95-1111 - 1113	added	383
95-1114, 1115	added	384
95-1116, 1117	added	385
95-1118	added	386
95-1119 - 1121	added	387
95-1122, 1123	added	388
95-1201 - 1203	added	389
95-1204, 1301	added	390
95-1302, 1303	added	391
95-1401 - 1403	added	392
95-1404, 1405	added	393
95-1406	added	394
95-1407	added	395
95-1408 - 1410	added	396
95-1501 - 1503	added	397
95-1504	added	398
95-1505	added	399
95-1506	added	400
95-1601 - 1604	added	400
95-1605, 1606	added	401
95-1607, 1608	added	402
95-1701, 1702	added	402
95-1703 - 1707	added	403
95-1708, 1709	added	404
95-1710, 1801	added	405
95-1802	added	407
95-1803	added	408

HeinOnline -- 1967 vol. II 1388 1967

Title-Sec.		Page
95-1804, 1805	added	410
95-1806	added	411
95-1901 - 1903	added	412
95-1904 - 1908	added	413
95-1909	added	414
95-1910	added	416
95-1911 - 1913	added	418
95-1914, 1915	added	419
95-1916	added	420
95-2001 - 2003	added	420
95-2004, 2005	added	421
95-2006	added	422
95-2007, 2008	added	423
95-2009, 2101	added	424
95-2201 - 2204	added	425
95-2205, 2206	added	426
95-2207 - 2209	added	427
95-2210 - 2214	added	428
95-2215, 2216	added	429
95-2301 - 2303	added	430
95-2304, 2305	added	431
95-2306 - 2308	added	432
95-2309 - 2311	added	438
95-2312	added	439
95-2401 - 2403	added	439
95-2404, 2405	added	440
95-2406 - 2408	added	441
95-2409	added	443
95-2410	added	445
95-2411 - 2413	added	446
95-2414, 2415	added	447
95-2416	added	448
95-2417	added	449
95-2418	added	450
95-2419, 2420	added	451
95-2501	added	456
95-2502, 2503	added	457
95-2504, 2601	added	458
95-2602 - 2605	added	459
95-2606 - 2608	added	460
95-2701 - 2703	added	460
95-2704 - 2708	added	461
95-2709 - 2711	added	462
95-2712 - 2716	added	463

Laws of 1953

THIRTY-THIRD SESSION

Chap.		Page
216	amended	717

Laws of 1957

THIRTY-FIFTH SESSION

Chap.	Sec.		Page
174	1	amended	586

Laws of 1961

THIRTY-SEVENTH SESSION

Chap.	Sec.		Page
162	6	amended	814

Laws of 1963

THIRTY-EIGHTH SESSION

Chap.	Sec.		Page
67		amended	322
216		amended	719
245	1	amended	916
264	9-402	amended	819
264	9-403	amended	820
264	9-404	amended	822
264	9-405	amended	823
264	9-406	amended	825
270	9	amended	202

HeinOnline -- 1967 vol. II 1389 1967

Laws of 1965

THIRTY-NINTH SESSION

Chap.	Sec.		Page
3		amended	835
33		amended	719
83	1	amended	586
94		amended	20
135	1	amended	203
164	2	amended	924
164	3	amended	925
165	3	amended	588
168		amended	618
177		amended	160
182		amended	326
197		amended	826
197	4-201	amended	1089
197	5-103	amended	827
197	6-101	amended	900
197	6-104	amended	902
197	6-201	amended	1234
197	6-202	amended	1235
197	6-203	amended	1235
197	6-205	amended	1236
197	6-209	amended	900
197	7-101	amended	159
197	7-204	amended	32
199	69	amended	738
248	5	amended	199
257		amended	217
258	2	amended	229
259		amended	719
267		amended	222

HeinOnline -- 1967 vol. II 1390 1967